

RESOLUTION NO. 2024-01

A RESOLUTION OF THE BOARD OF SUPERVISORS OF THE WALNUT CREEK COMMUNITY DEVELOPMENT DISTRICT, AMENDING THE WALNUT CREEK COMMUNITY DEVELOPMENT DISTRICT GATE FACILITIES RULE BY REVISING SECTION 7.0 RELATING TO GATE FACILITIES DAMAGE FEES AND COST; PROVIDING FOR AN INCREASE TO THE FEE; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Walnut Creek Community Development District (the “District”) was established pursuant to Chapter 190, Florida Statutes, and City of Pembroke Pines Ordinance No. 1339; and

WHEREAS, the District funds, operates, and maintains certain security and security-related improvements, facilities and equipment, including guardhouses, gates, gate arms, cameras, audio-visual and recording equipment, lighting, wiring, cabling, and electrical facilities, and other appurtenant security or security-related improvements benefiting the residents and property owners within the District (collectively, the “Gate Facilities”); and

WHEREAS, residents, their guest, and visitors to the community, who damage the Gate Facilities, or portions thereof, are responsible for the cost incurred by the District to repair or replace the damaged Gate Facilities; and

WHEREAS, due to recent administrative changes to the District’s security program, and the rise in the cost of materials and labor, the cost incurred by the District for repairing or replacing damaged Gate Facilities has increased, necessitating an increase to the fee charged pursuant to Section 7.0 of the Gate Facilities Rule; and

WHEREAS, pursuant to Sections 120.54, 120.81, 190.011(5), and 190.035(2), Florida Statutes, the District is authorize to adopt and modify rules prescribing the conduct of business of the District, the use of the District facilities and lands, the operation and maintenance of the District; and

WHEREAS, Chapter 190, Florida Statutes, authorize the District to prescribe, fix, establish, and collect rates, fees and other charges for facilities and services furnished by the District; and

WHEREAS, pursuant to the requirements of Chapter 120 and 190, Florida Statutes, the District advertised a public hearing for January 16, 2024, in order to hear and receive comments on the proposed Encroachment and District Property Damage; and

WHEREAS, after a duly advertised public hearing, the District Board of Supervisors finds it to be in the best interests of the District, the integrity and maintenance of its Gate Facilities, and the residents and property owners of the District to adopt the proposed amendment to the Gate Facilities Rule.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF SUPERVISORS OF THE WALNUT CREEK COMMUNITY DEVELOPMENT DISTRICT, THAT:

Section 1. The above recitals are true and correct and are incorporated in and adopted as part of this Resolution.

Section 2. Section 7.0 of the District Gate Facilities rule is hereby amended, as follows:

7.0 Gate Facilities damage fees shall be as follows:

7.1 Removing, pulling, or knocking off gate arm requiring re-attachment (no damage to gate arm or other Gate Facilities).....\$ 400.00 1,000.00;

7.2 Re-activating a de-activated gate access card, transponder, or reader.....\$30.00 per card/reader or \$50.00 per unit (covers all cards/transponders assigned to unit), whichever is less.

7.3 Damage to other Gate Facilities not referenced in this section shall be assessed at cost plus ten (10%) for administration fees.

Section 3. The District Manager is hereby directed to take all actions consistent with the content of this Resolution and to distribute this Resolution as required by Chapters 120 and 190, Florida Statutes.

Section 4. All motions, resolutions, or parts of motions or resolutions in conflict herewith are hereby repealed to the extent of such conflict.

Section 5. If any clause, section, paragraph, provision, or other part or application of this Resolution is held by court of competent jurisdiction to be unconstitutional, ineffective, or invalid, in part or as applied, it shall not affect the validity of the remaining clauses, sections, paragraphs, provisions, parts, or applications of the Resolution.

Section 6. This Resolution shall be effective immediately upon adoption.

PASSED AND ADOPTED THIS 16 DAY OF JANUARY, 2024.

ATTEST:



Secretary/Assistant Secretary

WALNUT CREEK COMMUNITY
DEVELOPMENT DISTRICT



Chairman/Vice-Chairman

WALNUT CREEK COMMUNITY DEVELOPMENT DISTRICT

GATE FACILITIES RULE

Amended January 16, 2024

1.0 This rule may be cited and referred to as the Walnut Creek Community Development District (“District”) Gate Facilities Rule.

2.0 The District funds, operates, and maintains certain security and security-related improvements, facilities and equipment, including guardhouses, gates, gate arms, cameras, audio-visual and recording equipment, lighting, wiring, cabling, and electrical facilities, and other appurtenant security or security-related improvements benefiting the residents and property owners within the District (collectively, the “Gate Facilities”), which Gate Facilities are located at the two means of ingress and egress for the Walnut Creek development.

3.0 The District Manager or his or her designee (the “District Manager”) shall have the authority to de-activate all gate access cards, transponders, and readers issued to a particular unit within the District for unpaid Gate Facilities damage fees, after the following:

3.1 The District possesses video, eyewitness, or documentary evidence that a vehicle registered to the unit within the District or a guest to that unit has caused damage to the Gate Facilities of the District; and

3.2 The District has sent a correspondence to said unit, which correspondence shall (1) detail the date and location of the incident, the vehicle(s) involved, and the damage caused to the District Gate Facilities, (2) indicate that such gate damage must be paid to the District within at least thirty (30) days, and (3) indicate that all gate access cards, transponders, and readers issued to the unit will be de-activated if payment is not received by the District within said thirty (30) day period.

4.0 Prior to the expiration of the thirty (30) day period referenced in section 3.2 above, the de-activation and the Gate Facilities damage fees may be appealed in writing directly to the District Board of Supervisors, which will hear said appeal at its next regular meeting. During the time of the appeal, cards/transponders will not be de-activated.

5.0 Gate access cards and transponders may be re-activated by the District Manager upon payment of all Gate Facilities damage fees and costs to the District or when directed by the District Board of Supervisors after an appeal filed and heard pursuant to section 4.0 above.

6.0 In addition to the authority provided in Section 3.0 above, upon receiving video, eyewitness, or documentary evidence of damage to the Gate Facilities, the District Manager or his or her designee shall have the authority on behalf of the District to impose and take all appropriate and lawful means to collect from the owner or driver of any vehicle or from any individual causing damage to the Gate Facilities all fees and costs associated with damages to the Gate Facilities, including those Gate Damage Fees set forth in Section 6.0 below. Any litigation pertaining to the collection of Gate Damage Fees shall first be authorized by the District Board of Supervisors.

7.0 Gate Facilities damage fees shall be as follows:

7.1 Removing, pulling, or knocking off gate arm requiring re-attachment (no damage to gate arm or other Gate Facilities).....\$1,000.00;

7.2 Re-activating a de-activated gate access card, transponder, or reader.....\$30.00 per card/reader or \$50.00 per unit (covers all cards/transponders assigned to unit), whichever is less.

7.3 Damage to other Gate Facilities not referenced in this section shall be assessed at cost plus ten (10%) for administration fees.