

PEDESTRIAN MALL ROOF SNOW-SHED PROTECTION AND SNOW REMOVAL REGULATION

1. Title. This regulation shall be known as "Pedestrian Mall Roof Snow-Shed Protection and Snow Removal Regulation".

2. Purpose and Applicability.
 - a. The purpose of this regulation is to: (i) reduce the frequency of falling snow and/or ice from the roofs of buildings within, adjacent to, or near the Pedestrian Mall by requiring that the owners of such buildings engage in the installation or supplementation of roof-top snow-shed protection systems and regular snow and/or ice build-up inspection activities, and, if necessary, snow and ice removal activities; (ii) to establish procedures under which snow and ice removal activities will occur; and (iii) to set forth rules for the enforcement of such requirements.

 - b. This regulation shall apply to each of the buildings listed below, each of which are within, adjacent to, or near the area of the Resort known as the "Pedestrian Mall" (such area being depicted and described in that certain Second Amendment to First Filing – Beaver Creek Subdivision Block I, Tract A, filed for record at Book 307, Page 997 (Reception No. 204379) of the real property records for Eagle County, Colorado, as amended (the "Plat"), as Lots 9 and 26 along with those areas designated on the Plat as a "Pedestrian/Public Space Easement"). This regulation shall apply to the following buildings: (1) Beaver Creek Hotel A (d/b/a Park Hyatt Beaver Creek Resort & Spa); (2) The Beaver Creek Lodge; (3) Village Hall (d/b/a Ford Hall); (4) Market Square; (5) One Beaver Creek; (6) Park Plaza Lodge; (7) The Poste Montane Lodge & Condominiums; and (8) St James Place. Hereinafter, each of the above-listed buildings shall be referred to individually as a "Subject Building." The Resort Company has the power to amend this Regulation from time to time, without notice.

3. Definitions. For the purposes of this Regulation, the following terms shall be defined as follows:

"overhead snow/ice safety removal issue" means:

 - a. Any buildup of snow and/or ice that is not contained by rooftop retention devices and that may fall onto a pedestrian walkway below at any time no matter the size of the buildup; and

 - b. Any buildup of snow and/or ice that, due to freeze / thaw cycles, creates visible ice that is not retained or controlled by rooftop retention devices; and that may fall onto a walkway below at any time no matter the size of the buildup; and

 - c. Any broken roof tiles (often caused by freeze / thaw cycles) that may become dislodged and that may fall onto a walkway below; and

- d. any other situation or circumstance related to the accumulation of snow and/or ice on a rooftop that, in the reasonable assessment of a representative of the Beaver Creek Resort Company, presents a clear and present danger to pedestrians.

“owner” means the owner or owners of a building as well as any association that has the legal authority to improve and maintain the building.

“snow guard system” means a system based on the use of bars, clips, tabs or other similar horizontal or vertical elements.

- 4. Requirements for Snow-Shed Protection Systems. The owner of each Subject Building shall ensure that each roof plane of his building that may shed snow or ice onto the Pedestrian Mall or onto any other pedestrian walkway shall be designed, constructed and maintained as follows:

- a. Each such roof-plane shall contain a snow guard system that is supplemented by a wire mesh retention system, all of which is designed by a qualified engineer for the purpose of preventing the roof plane from shedding snow and/or ice to areas below the roof plane; or
- b. Each such roof plane shall contain a heat tape or other heating system that is designed by a qualified engineer for the purpose of preventing the roof plane from shedding snow and/or ice to areas below the roof plane.

- 5. Requirements for Snow Inspection and Removal.

5.1 During months that snow accumulates, the owner and, if one exists, the manager of each Subject Building shall ensure that there are regular inspections of all eaves and other roof areas of the building that could result in the discharge of snow, and/or ice, and/or roof tiles, to pedestrian walkways below. Upon identification of an overhead snow/ice safety removal issue as a result of such inspections, or upon being informed by a representative of the Beaver Creek Resort Company that an overhead snow/ice safety removal issue exists on the Subject Building, the owner or building manager shall proceed in accordance with the requirements set forth in section 5.2 below.

5.2 Upon identification of an overhead snow/ice safety removal issue, or upon being informed by a representative of the Beaver Creek Resort Company that an overhead snow/ice safety removal issue exists on the Subject Building, the owner or, if one exists, the manager of the building shall:

- a. immediately contact the Beaver Creek Public Safety Department to receive assistance in cordoning off the hazard area, which cordoning off activities shall be undertaken using only those devices that have been approved by the Beaver Creek Public Safety Department for pedestrian

control purposes, and which devices shall in no event involve the use of yellow construction hazard tape or similar items; and

- b. immediately schedule appropriate work crews to remove the identified hazard and ensure that diligent and reasonable efforts are being made to complete the snow removal activity within 24 hours of the identification of the hazard, or within such longer period of time as is necessary for the snow removal in the reasonable judgment of the Executive Director of the Resort Company, but in no event more than 72 hours; and
- c. ensure that all such removal activities are safely completed, including but not limited to ensuring that at all times during the removal activities there is at least one worker posted at ground level to monitor pedestrian safety.

6. Violation - Penalty. This regulation may be enforced by the Beaver Creek Resort Company, the Beaver Creek Resort Company Security Department, or any authorized agent of either of the foregoing. The owner, and, if one exists, the manager of each building that is subject to the provisions of this regulation shall be jointly and severally liable for compliance with the requirements set forth herein; however, the owner shall be solely liable for the payment of any fines levied hereunder. Upon the first occurrence of a violation hereunder, the violator will be notified of the violation and warned that further violations are subject to, among other things, fines. Thereafter, violators of the provisions of this regulation are punishable in any one winter season by fines of \$500.00 for the second offense, \$1,000.00 for the third offense, and \$1,500.00 for each additional offense thereafter. The Resort Company shall be entitled to recover all reasonable costs and expenses (including but not limited to reasonable attorneys' fees) incurred by it in connection with any legal action necessary to establish or resolve violations under this regulation. Each day during which any violation of any provision of this regulation shall exist shall be considered a separate and distinct violation.

It is the intent of the Resort Company that each of the enforcement mechanisms and penalties described in this regulation shall be in addition to and not in lieu of any other enforcement mechanisms and penalties that may be available to the Resort Company. Without limitation of the foregoing, the Resort Company may seek an injunction to restrain a person from any further violation of this regulation, such remedy being in addition to all other remedies available at law, equity or otherwise.