

**RESOLUTION OF THE BOARD OF DIRECTORS OF  
LUPTON VILLAGE METROPOLITAN DISTRICT  
ADOPTING THE RULES AND REGULATIONS GOVERNING  
ENFORCEMENT OF THE COVENANTS, CONDITIONS AND RESTRICTIONS  
OF LUPTON VILLAGE PUD**

WHEREAS, the Lupton Village Residential Metropolitan District (the “District”) is a quasi-municipal corporation and political subdivision of the State of Colorado and operates pursuant to its amended and restated service plan, approved by the City of Fort Lupton, Colorado on February 4, 2020; and

WHEREAS, pursuant to Section 32-1-1001(1)(m), C.R.S., the District has the power to adopt, amend and enforce bylaws and rules and regulations not to conflict with the constitution and laws of the State for carrying on the business, objects, and affairs of the Board of Directors (the “Board”) and of the District; and

WHEREAS, pursuant to Section 32-1-1001(1)(j)(I), C.R.S., the District has the power to fix and from time to time to increase or decrease fees, rates, tolls, penalties or charges for services, programs, or facilities furnished by the District; and

WHEREAS, pursuant to Section 32-1-1004(8), C.R.S., the District may provide covenant enforcement and design review services within the District’s boundaries if the declaration or similar document containing the covenants to be enforced for the area within the District (the “Property”) name the District as the enforcement entity;

WHEREAS, Lupton Village Land Developers, LLC (the “Developer”) has caused to be recorded those certain Covenants, Conditions and Restrictions for Lupton Village PUD, recorded on \_\_\_\_\_, at Reception No. \_\_\_\_\_ of the Weld County, Colorado, real property records (the “Covenants”); and

WHEREAS, the Covenants provide that it is the intention of the Developer to empower the District to provide certain services to the residents of the District, including covenant enforcement, design review, and trash collection (the “Services”); and

WHEREAS, pursuant to the Covenants, the District may promulgate, adopt, enact, modify, amend, and repeal Rules and Regulations concerning and governing the Property and the enforcement of the Covenants; and

WHEREAS, pursuant to the Covenants, the District has the right to send demand letters and notices, to levy and collect fines, to negotiate, to settle, and to take any other actions with respect to any violation(s) or alleged violation(s) of the Covenants; and

WHEREAS, the District desires to provide for the orderly and efficient enforcement of the Covenants by adopting rules and regulations governing the enforcement of the Covenant.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE LUPTON VILLAGE RESIDENTIAL METROPOLITAN DISTRICT AS FOLLOWS:

1. The Board hereby adopts the Rules and Regulations Governing the Enforcement of the Covenants, Conditions and Restrictions for Lupton Village PUD as described in Exhibit A, attached hereto and incorporated herein by this reference (the “Rules and Regulations”).


2. The Board declares that the Rules and Regulations are effective as of June 18, 2021.

3. Judicial invalidation of any of the provisions of this Resolution or any paragraph, sentence, clause, phrase or word herein, or the application thereof in any given circumstances, shall not affect the validity of the remainder of this Resolution, unless such invalidation would act to destroy the intent of essence of this Resolution.

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APPROVED AND ADOPTED this \_\_8th\_\_ day of \_\_\_\_\_ July \_\_\_\_\_, 2021.

LUPTON VILLAGE RESIDENTIAL  
METROPOLITAN DISTRICT

  
William Johanningmeier (Mar 14, 2022 10:59 MDT)

William J. Johanningmeier, President

ATTEST:

  
Fred L Croci (Mar 14, 2022 10:30 MDT)

By: Fred Croci, Assistant Secretary

**EXHIBIT A**  
**Rules and Regulations Governing the Enforcement of the Covenants, Conditions**  
**and Restrictions for Lupton Village PUD**

**RULES AND REGULATIONS GOVERNING THE ENFORCEMENT OF THE COVENANTS, CONDITIONS AND RESTRICTIONS FOR LUPTON VILLAGE PUD**

Adopted and Enforced by the Board of Directors of Lupton Village Residential Metropolitan District

Effective: \_\_\_\_\_, 2021

**Preamble**

The Board of Directors (the “Board”) of the Lupton Village Residential Metropolitan District (the “District”) has adopted the following Rules and Regulations Governing the Enforcement of the Covenants, Conditions and Restrictions for Lupton Village PUD (the “Rules and Regulations”) pursuant to Sections 32-1-1001(1)(j)(I), 32-1-1001(1)(m), and Section 32-1-1004(8), C.R.S., as well as pursuant to the Resolution of the Board of the District adopting the Rules and Regulations, dated \_\_\_\_\_, 2021). These Rules and Regulations provide for the orderly and efficient enforcement of the Covenants, Conditions and Restrictions for Lupton Village PUD, recorded on \_\_\_\_\_, 20\_\_\_\_, at Reception No. \_\_\_\_\_ of the Weld County, Colorado, real property records (the “Covenants”), the contents of which are incorporated herein by reference.

Pursuant to the Covenants, Lupton Village Land Developers, LLC (the “Developer”) intends to empower the District to provide certain services to the residents of the District (the “Services”) which include covenant enforcement, design review, and trash collection.

The District, pursuant to its amended and restated service plan, approved by the City of Fort Lupton, Colorado on February 4, 2020, as it has or may be amended from time to time, and pursuant to the Covenants, may enforce the Covenants through any proceeding in law or in equity against any Person(s) violating or attempting to violate any provision therein. Possible remedies include all of those available at law or in equity. In addition, the District has the right to send demand letters and notices, to levy and collect fines, to negotiate, to settle, and to take any other actions, with respect to any violation(s) or alleged violations(s) of the Covenants.

Unless otherwise specified, all references to the “District” made herein shall refer to the Lupton Village Residential Metropolitan District and its Board of Directors. The District has retained a management company (the “Manager”) to assist in managing its affairs, including the assessment and collection of penalties for violations of the Covenants under these Rules and Regulations.

**ARTICLE 1.  
SCOPE OF RULES AND REGULATIONS**

1.1 Scope. These Rules and Regulations shall apply to the enforcement of the Covenants, including the Guidelines that may be adopted pursuant thereto, as well as any reimbursable costs incurred by the District for enforcing the Covenants and for correction of non-compliance with the Covenants, including but not limited to, abatement of unsightly conditions, towing and storage of improperly parked vehicles, removal of trash, and removal of non-complying landscaping or improvements.

## **ARTICLE 2. VIOLATIONS OR THE COVENANTS**

2.1 Violations. Any Person violating any provisions of the Covenants shall be liable to the District for any expense, loss, or damage occasioned by reason of such violation and shall also be liable to the District for the penalties set forth in Section 2.3 below.

2.2 Notice of Violation or Notice of Non-Compliance. A Notice of Violation or Notice of Non-Compliance (collectively, the “Notice”) shall be sent upon a determination, following investigation, by the Manager that a violation is likely to exist. Such Notice shall set forth the specifics of the alleged violation and the time period within which the alleged violation must be corrected, pursuant to the following classification guidelines:

a. Class I Violation: a violation that, in the sole discretion of the Board, can be corrected immediately and/or does not require submission to, and approval by, the Board or the Architectural Review Committee (the “ARC”) of any plans specifications, Class I Violations include, but are not limited to, parking violations, trash violations, nuisances, and other violations of the Covenants. Class I Violations can in most cases be corrected within seven (7) days of notification. If the violation is not corrected within seven (7) days of notification or such longer period as required by the Covenants, the District may take any appropriate action necessary to remedy the violation, including by not limited to, abatement or unsightly conditions, towing and storage of improperly parked vehicles, and removal of trash, etc.

b. Class II Violations: a violation that, in the sole discretion of the Board, cannot be corrected immediately and/or requires plans and specifications to be submitted to, and approval by, the Board or the ARC prior to any corrective action. Class II Violations include, but are not limited to, violations of the Covenants related to landscaping and construction of, or modification to, improvements. Class II Violations can in most cases be corrected within forty-five (45) days of receipt of the Notice. If the violation is not corrected within forty-five (45) days of receipt of the Notice, the District may take any appropriate action necessary to remedy the violation, including but not limited to, removing the non-complying landscaping or improvement, or recording a notice of non-compliance against the Property pursuant to Section 2.11 of the Covenants.

2.3 Penalties. Penalties for violations of the Covenants shall be assessed as follow:

- a. First Offense – the Notice of Violation/Notice of Non-Compliance, no monetary penalty;
- b. Second Offense – a fee of up to Once Hundred Dollars (\$100);
- c. Third Offense – a fee of up to Two Hundred Fifty Dollars (\$250); and
- d. Continuing Violation – a fee of up to Five Hundred Dollars (\$500) for each day the violation continues (each day constitutes a separate offense)

Any penalties that have not been paid by the applicable due date shall be considered delinquent (the “Delinquent Account”)

**ARTICLE 3.  
INTEREST**

3.1 Interest. Interest charges shall accrue and shall be charged on all amounts not paid by the applicable due date, including delinquent penalties and any amounts expended by the District to cure a violation of the Covenants or amounts expended by the District to repair damages caused as a result of a violation of the Covenants. Interest charges shall accrue and shall be charged at the higher of the maximum statutory rate or eighteen percent (18%) per annum.

**ARTICLE 4.  
LIEN FILING PROCEDURES**

4.1 Perpetual Lien. Pursuant to Section 32-1-1001(1)(j)(I), C.R.S., the District has the power to fix and from time to time to increase or decrease fees, rates, tolls, penalties or charges for services, programs, or facilities furnished by the District (“Fees and Charges”) and all Fees and Charges, until paid, shall constitute a perpetual lien on and against the Property to be served by the District. Except for the lien against the Property created by the imposition of property taxes by the District and other taxing jurisdictions pursuant to Section 32-1-1202, C.R.S., all liens for unpaid Fees and Charges shall, to the fullest extent permitted by law, have priority over all other liens of record affecting the Property and shall run with the Property and remain in effect until paid in full. All liens contemplated herein may be foreclosed as authorized by law at such time as the District, in its sole discretion, may determine. Notwithstanding the foregoing, the lien policies and procedures set forth herein shall be implemented in order to ensure an orderly and fair execution of the lien filing and collections process.

4.2 Manager’s Procedures. The Manager shall be responsible for collecting Fees and Charges imposed by the District against the Property. In the event payment of Fees and Charges is delinquent, the Manager shall perform the procedures listed below. Any Fees and Charges which have not been paid by the applicable due date are considered delinquent:

a. Once a payment is fifteen (15) business days past due, a delinquent payment reminder letter shall be sent to the address of the last known owner of the Property according to the Manager's records (the "Remainder Letter"). In the event the above mailing is returned as undeliverable, the Manager shall send a second copy of the Reminder Letter to: (i) the Property; and (ii) the address of the last known owner of the Property, as found in the real property records of the Weld County Clerk and Recorder (collectively, the "Property Address"). Said Reminder Letter shall request prompt payment of the amounts due and owing.

b. On the fifteenth (15<sup>th</sup>) business day of the month following the due date for payment, a warning letter shall be sent to the Property Address requesting prompt payment and warning of further legal action should the Property owner fail to pay the total amount due and owing (the "Warning Letter"). Along with the Warning Letter, a summary of these Rules and Regulations, and a copy of the most recent account ledger reflecting the total amount due and owing to the District according to the records of the Manager shall also be sent.

c. Once the total amount due and owing on the Property, inclusive of Interest and Costs of Collections, as defined below, has exceeded One Hundred Twenty Dollars (\$120) and the Manager has performed its duties outlined in Sections 4.2 (a) and (b) of these Rules and Regulations, but no sooner than the first (1<sup>st</sup>) business day of the month following the postmark date of the Warning Letter, the Manager shall refer the Delinquent Account to the District's legal counsel ("Legal Counsel"). At the time of such referral, the Manager shall provide Legal Counsel with copies of all notices and letters sent pursuant to Sections 4.2 (a) and (b) and a copy of the most recent account ledger for the Delinquent Account.

4.3 Legal Counsel Procedures. Upon referral of a Delinquent Account from the Manager, Legal Counsel shall perform the following:

a. Upon referral of the Delinquent Account from the Manager, a demand letter shall be sent to the Property Address, notifying the Property owner that his/her Property has been referred to Legal Counsel for further collections enforcement, including the filing of a lien against the Property (the "Demand Letter"). Along with the Demand Letter, a copy of the most recent account ledger reflecting the total amount due and owing the District according to the records of the Manager shall also be sent.

b. No earlier than thirty (30) business days from the date of the Demand Letter, a Notice of Intent to File Lien Statement, along with a copy of the lien to be filed, shall be sent to the Property Address notifying the Property owner that a lien will be filed no sooner than ten (10) days from the postmark date of the Notice of Intent to File Lien Statement postmark date (the "Notice of Intent").

c. No earlier than ten (10) days from the postmark date of the Notice of Intent, a lien for the total amount due and owing as of the date of the lien shall be recorded against the Property with the Weld County Clerk and Recorder's Office; all Fees



and Charges, Interest and Costs of Collection (as defined below) will continue to accrue on the Delinquent Account and will run with the Property until the total amount due and owing the District is paid in full.

## **ARTICLE 5. COSTS OF COLLECTION**

5.1 Costs of Collections. “Costs of Collections” are generated by the Manager and Legal Counsel’s collection efforts. They consist of, but are not limited to, the following fixed rates and hourly fees and costs:

a. Action Fees. The following fixed rate fees shall be charged to a Delinquent Account once the corresponding action has been taken by either the Manager or Legal Counsel:

- i. Reminder Letter Fee. There shall be no charge for the Reminder Letter – this action is performed by the Manager.
- ii. Warning Letter Fee. Ten Dollars (\$10) per Warning Letter sent – this action is performed by the Manager.
- iii. Demand Letter Fee. Sixty Dollars (\$60) per Demand Letter sent – this action is performed by the Manager.
- iv. Notice of Intent Fee. One Hundred Twenty Dollars (\$120) per Notice of Intent – this action is performed by Legal Counsel.
- v. Lien Recording Fee. One Hundred Fifty Dollars (\$150) per each lien recorded on the Property – this action is performed by Legal Counsel.
- vi. Lien Release Recording Fee. One Hundred Fifty Dollars (\$150) per each lien release recorded on the Property – this action is performed by Legal Counsel.

b. Attorney Hourly Fees and Costs. After a lien has been filed, all hourly fees and costs negated by Legal Counsel to collect unpaid Fees and Charges shall also be assessed to the Delinquent Account.

5.2 Recovery of Costs of Collections. In accordance with Section 29-1-1102(8), C.R.S., nothing in these Rules and regulations shall be construed to prohibit the District from recovering all the Costs of Collections whether or not outlined above.

**ARTICLE 6.**  
**WAIVER OF INTEREST AND COSTS OF COLLECTIONS**

6.1 Waiver of Interest. The Manager and Legal Counsel shall each have authority and discretion to waive or reduce portions of the Delinquent Account attributable to Interest. Such action shall be permitted if either the Manager or Legal Counsel, in its discretion, determines that such waiver or reduction will facilitate the payment of the penalties due. Notwithstanding, if the cumulative amount due and owing the District on the Delinquent Account exceeds One Thousand Dollars (\$1,000), either the Manager nor Legal Counsel shall have any authority to waive or reduce any portion of the Interest. In such case, the person or entity owing in excess of One Thousand Dollars (\$1,000) shall first submit a request for a waiver or reduction, in writing, to the Board, and the Board shall make the determination in its sole discretion.

6.2 Waiver of Delinquent Penalties and Costs of Collections. Neither the Manager nor Legal Counsel shall have the authority to waive any portion of delinquent penalties or Costs of Collections. Should the Property owner desire a waiver of such costs, she/he shall submit a written request to the Board, the Board shall make the determination in its sole discretion.

6.3 No Waiver of Future Interest. Any waiver or reduction of Interest or other costs granted pursuant to Sections 6.1 and 6.2 hereof shall not be construed as a waiver or reduction of future Interest. Nor shall any such waiver or reduction be deemed to bind, limit, or direct the future decision-making power of the Board, the Manager or Legal Counsel, whether related to the Property in question or other properties within the District.

**ARTICLE 7.**  
**OPPORTUNITY TO BE HEARD**

7.1 Opportunity to be Heard. Individuals who receive any notice or demand pursuant to these Rules and Regulations may request a hearing in accordance with the procedures set forth herein, or in the alternative, they elect to follow the Alternative Dispute Resolution procedures set forth in Article 4 of the Covenants.

7.2 Hearing Process. The hearing and appeal procedures established by this Article 7 shall apply to all complaints concerning the interpretation, application, or enforcement of the Covenants, as each now exists or may hereafter be amended.

a. Complaint. Complaints concerning the interpretation, application, or enforcement of the Covenants must be presented in writing to the Manager, or such representative as he or she may designate. Upon receipt of a complaint, the Manager or designated representative, after a full and complete review of the allegations contained in the complaint, shall take such action and/or make such determination as may be warranted and shall notify the complainant of the action or determination by mail within fifteen (15) business days after receipt of the complaint. Decisions of the Manager which impact the

District financially will not be binding upon the District unless approved by the Board at a special or regular meeting of the Board.

b. Hearing. In the event the decision of the Manager, or designated representative, is unsatisfactory to the complainant, the complainant may submit to the Board a written request for a formal hearing before a hearing officer, which may be a member of the Board or such other Person as may be appointed by the Board (the "Hearing Officer"). Such request for a formal hearing must be submitted within twenty (20) business days from the date written notice of the decision of the Manager, or designated representative, was mailed.

Upon receipt of the request for a formal hearing, if it be timely and if any and all other prerequisites prescribed by these Rules and Regulations have been met, the Hearing Officer shall conduct a hearing at the District's convenience but in any event not later than fifteen (15) business days after the submission of the request for a formal hearing. The formal hearing shall be conducted in accordance with and subject to all pertinent provisions of these Rules and Regulations. Decisions of the Hearing Officer which impact the District financially will not be binding upon the District unless approved by the Board at a special or regular meeting of the Board.

c. Rules. At the formal hearing, the Hearing Officer shall preside. The complainant and representatives of the District shall be permitted to appear in person, and the complainant may be represented by any Person (including legal counsel) of complainant's choice.

The complainant or his or her representative and the District representatives shall have the right to present evidence and arguments; the right to confront and cross-examine any Person; and the right to oppose any testimony or statement that may be relied upon in support of or in opposition to the matter complained of. The Hearing Officer may receive and consider any evidence which has probative value commonly accepted by reasonable and prudent Persons in the conduct of their affairs.

The Hearing Officer shall determine whether clear and convincing grounds exist to alter, amend, defer, or cancel the interpretation, application, and/or enforcement of the Rules and Regulations that are the subject of the complaint. The Hearing Officer's decision shall be based upon evidence presented at the hearing. The burden of showing that the required grounds exist to alter, amend, defer, or cancel the action shall be upon the complainant.

d. Findings. Subsequent to the formal hearing, the Hearing Officer shall make written findings and an order disposing of the matter and shall mail a copy thereto to the complainant not later than fifteen (15) business days after the date of the formal hearing.

e. Appeals. In the event the complainant disagrees with the findings and order of the Hearing Officer, the complainant may, within fifteen (15) business days

from the date such findings and order were mailed, file with the District a written request for an appeal thereof to the Board. The request for an appeal shall set forth with specificity the facts or exhibits presented at the formal hearing upon which the complainant relied and shall contain a brief statement of the complainant's reasons for the appeal. The District shall compile a written record of the appeal consisting of (i) a transcript of the recorded proceedings at the formal hearing, (ii) all exhibits or other physical evidence offered and reviewed at the formal hearing, and (iii) a copy of the written findings and order. The Board shall consider the complainant's written request and the written record on appeal at its next regularly scheduled meeting held not earlier than ten (10) days after the filing of the complainant's request for appeal. The Board's consideration of the appeal shall be limited exclusively to a review of the record on appeal and the complainant's written request for appeal. No further evidence shall be presented by any Person or party to the appeal, and there shall be no right to a hearing de novo before the Board.

f. Board Findings. The Board shall make written findings and an order concerning the disposition of the appeal presented to it and shall cause notice of the decision to be mailed to the complainant within thirty (30) days after the Board meeting at which the appeal was considered. The Board will not reverse the decision of the Hearing Officer unless it appears that such decision was contrary to the manifest weight of the evidence made available at the formal hearing.

g. Notices. A complainant shall be given notice of any hearing before the Manager, the Hearing Officer, or before the Board, by certified mail at least seven (7) business days prior to the date of the hearing, unless the complainant requests or agrees to a hearing in less time. When a complainant is represented by an attorney, notice of any action, finding, determination, decision, or order affecting the complainant shall also be served upon the attorney.

## **ARTICLE 8. PAYMENT PLANS**

8.1 Payment Plans. Neither the Manager nor Legal Counsel shall have the authority to enter into or establish payment plans for the repayment of a Delinquent Account. Should the Property owner desire to enter into a payment plan with the District, such Property owner shall first submit a written request to the Board and the Board shall make the determination to accept or deny the request in its sole discretion.

## **ARTICLE 9. RATIFICATION OF PAST ACTIONS**

9.1 Ratification of Past Actions. All waivers and payment plans heretofore undertaken by the Manager or Legal Counsel that would otherwise have been authorized by these Rules and Regulations are hereby affirmed, ratified, and made effective as of the date said actions occurred.

**ARTICLE 10.  
ADDITIONAL ACTIONS**

10.1 Additional Actions. The Board directs and authorizes its officers, staff and consultants to take such additional actions and execute such additional documents as are necessary to give full effect to the intention of these Rules and Regulations.

**ARTICLE 11.  
COLORADO AND FEDERAL FAIR DEBT COLLECTION ACTS**

11.1 Statutory Compliance. To the extent required by law, the Manager, Legal Counsel, and the Board shall comply with both the Colorado Fair Debt Collection Practices Act and the Federal Fair Debt Collections Practices Act.

**ARTICLE 12.  
SUPERSEDES PRIOR RESOLUTIONS, POLICIES, AND PROCEDURES**

12.1 Supersedes Prior Resolutions, Policies, and Procedures. To the extent that any term or provision in these Rules and Regulations conflicts with any term or provision in a previously enacted and valid resolution of the District imposing Fees and Charges, the term or provision in these Rules and Regulations shall prevail.

**ARTICLE 13.  
SEVERABILITY**

13.1 Severability. If any term or provision of these Rules and Regulations is found to be invalid or unenforceable by a court of competent jurisdiction or by operation of any applicable law, such invalid or unenforceable term or provision shall not affect the validity of these Rules and Regulations as a whole but shall be severed herefrom, leaving the remaining terms or provisions in full force and effect.

**ARTICLE 14.  
SAVINGS PROVISION**

14.1 Savings Provision. The failure to comply with the procedures set forth herein shall not affect the status of the Fees and Charges as a perpetual lien subject to foreclosure in accordance with law. Failure by the Manager, Legal Counsel, or other authorized representative to take any action in accordance with the requirements as specifically provided herein shall not invalidate subsequent efforts to collect the Fees and Charges.

**ARTICLE 15.  
NOTICES**

15.1 Notices. Any notice permitted or required by these Rules and Regulations shall be deemed to have been given and received upon the earlier to occur of (a) personal

delivery upon the Person to whom such notice is to be given; or (b) two (2) days after deposit in the United States mail, postage prepaid, to the Person to whom such notice is to be given.









# Res Rules and Regs - LVRES - Final

Final Audit Report

2022-03-14

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