



Policy for Covenant and Rule Enforcement

**RESOLUTION OF THE
LUPTON VILLAGE RESIDENTIAL METROPOLITAN DISTRICT
REGARDING POLICIES AND PROCEDURES FOR COVENANT AND RULE
ENFORCEMENT**

SUBJECT: Adoption of a policy regarding the enforcement of covenants and rules and procedures for the notice of alleged violations, conduct of hearings and imposition of fines.

PURPOSE: To adopt a uniform procedure to be followed when enforcing covenants and rules to facilitate the efficient operation of the District.

AUTHORITY: (1) the District’s Service Plan Section V.A.2, (2) Colorado law and (3) Declaration of Covenants, Conditions and Restrictions for the Lupton Village PUD (recorded with Weld County Clerk & Recorder’s Office at reception #4743200 on August 05, 2021)

EFFECTIVE DATE: September 14, 2023

RESOLUTION: The District hereby adopts the following procedures to be followed when enforcing the covenants and rules of the respective Declaration Documents:

1. Reporting Violations. Complaints regarding alleged violations may be reported by submission of a written complaint by an Owner or resident within the community, a group of Owners or residents, the District’s management company, Board member(s) or committee member(s).
2. Complaints. Complaints by Owners or residents, member of the Board of Directors, a committee member, or the manager shall be in writing and submitted to the Board of Directors. The complaining Owner or resident shall have observed the alleged violation and shall identify the complainant (“Complainant”), the alleged violator (“Violator”), if known, and set forth a statement describing the alleged violation, referencing the specific provisions which are alleged to have been violated, when the violation was observed and any other pertinent information. Non-written complaints or written complaints failing to include any information required by this provision may not be investigated or prosecuted at the discretion of the Association.
3. Investigation. Upon receipt of a complaint by the District, if additional information is needed, the complaint may be returned to the Complainant or may be investigated further by a Board-designated individual or committee. The Board shall have sole discretion in appointing an individual or committee to investigate the matter.

Owner Notification Policies

4. Initial Warning Letter. If a violation is found to exist, a warning letter shall be sent to the Owner of the Property in Violation explaining (1) the nature of the violation, (2) the action required to remedy the violation and (3) the fine that will be levied if a Second Notice is issued by the District. The Owner of the Property in Violation will have 14 days from the date of the letter to correct the violation.
5. Preferred Language: The written notice shall be in English and in any language that the Unit Owner has indicated a preference for correspondence.



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6. Notification Methods: All District enforcement notices shall be sent to Lot Owners via first class postal mail and, if the Lot Owner has provided the District with his/her email address, via email. For Second Notices only, such notices shall be sent to the Lot Owner via certified postal mail with return receipt requested by the District (which is in addition to sending such notice via first class mail).
7. Continued Violation After Initial Warning Letter.
 - A. If the Owner of the alleged Property in Violation does not correct the violation within 10 days of the *Initial Warning Letter*, a *Second Notice* shall then be sent to the Owner of the alleged Property in Violation providing the Owner with (a) an additional 30 days from the date of the letter to correct the violation and (b) an opportunity for a hearing, and explaining if a violation is found to exist, a fine may be imposed pursuant to this Resolution. The Second Notice shall further state that the alleged Violator is entitled to a hearing on the merits of the matter provided that such hearing is requested in writing within 10 days of the date of the second violation letter.
 - B. If the Owner of the alleged Property in Violation does not correct the violation within 30 days of the Second Notice, a *Third Notice* shall then be sent to the Owner of the Property in Violation providing the Owner with (a) an additional 30 days from the date of the letter to correct the violation, (b) notice of the fine posted to the Property Account in accordance with the fine schedule set by this Resolution, (c) a warning that the District may file a covenant lien on the Property in Violation at any time, and (d) a warning that the Property Account may be turned over to the District's attorneys for additional legal action at any time after issuance of a Third Notice.
 - C. If the Owner of the Property in Violation does not correct the violation within 14 days of the Third Notice, a *Fourth Notice and Subsequent Notices* shall then be sent to the Owner of the Property in Violation providing the Owner with (a) an additional 14 days from the date of the letter to correct the violation, (b) notice of the fine posted to the Property Account in accordance with the fine schedule set by this Resolution, (c) a warning that the district may file a covenant lien on the Property in Violation at any time, and (d) a warning that the Property Account may be turned over to the District's attorneys for legal action at any time.
8. Notice Regarding Cured Violation: The District shall issue a notice to the Lot Owner when the District determines that a violation has been cured. Such notice shall include (1) a statement that the Lot Owner will no longer be fined regarding this particular violation instance and (2) any outstanding balance owed by the Lot Owner to the District.

Owner Rights to Appeal Violation Notices

9. Notice of Hearing. If a hearing is requested by the Owner of the alleged Property in Violation, the Board, committee or other person conducting such hearing as may be determined in the sole discretion of the Board, shall serve a written notice of the hearing to all parties involved at least 10 days prior to the hearing date.
10. Impartial Decision Maker: Pursuant to Colorado Law, the owner of the alleged Property in Violation has the right to be heard before an "Impartial Decision Maker". An Impartial Decision Maker is defined under Colorado law as:



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"...a person or group of persons who have the authority to make a decision regarding the enforcement of the [Common Interest Community] covenants, conditions, and restrictions, including architectural requirements, and other rules and regulations of the [Common Interest Community] and do not have any direct personal or financial interest in the outcome. A decision maker shall not be deemed to have a direct personal or financial interest in the outcome if the decision maker will not, as a result of the outcome, receive any greater benefit or detriment than will the general membership of the [Common Interest Community]."

Unless otherwise disqualified pursuant to the definition of Impartial Decision Maker, the Board may appoint to act as the Impartial Decision Maker the entire Board, specified members of the Board, or any other individual or group of individuals.

11. Hearing. At the beginning of each hearing, the presiding officer, shall introduce the case by describing the alleged violation and the procedure to be followed during the hearing. Neither the Complainant nor the Owner or alleged Violation of the alleged Property in Violation are required to be in attendance at the hearing. Hearings will be held in executive session pursuant to CRS 38-33.3-308(4)(e). The Impartial Decision Maker shall base its decision solely on the matters set forth in the Complaint, results of the investigation and such other credible evidence as may be presented at the hearing. The Impartial Decision Maker shall, within a reasonable time, not to exceed 30 days, render its written findings and decision, and impose a fine, if applicable.
12. Failure to Timely Request Hearing. If the Owner fails to request a hearing within 10 days of a Second Notice, or fails to appear at the hearing, the Impartial Decision Maker may make a decision with respect to the alleged violation based on the Complaint, results of the investigation, and any other available information without the necessity of holding a formal hearing. If a violation is found to exist, the District may attach a fine to the Lot pursuant to these policies and procedures.
13. Notification of Decision. The decision of the Impartial Decision Maker shall be in writing and provided to the Owner within 30 days of the hearing, or if no hearing is requested, within 30 days of the final decision.
14. Fine Schedule. The following fine schedule has been adopted for all Property Violations other than threats to health/safety/welfare:

First Violation	Warning Letter
Continuous Violation – Second Notice (of same covenant or rule)	\$50
Continuous Violation – Third Notice (of same covenant or rule)	\$100
Continuous Violation – Fourth and Subsequent Notices (of same covenant or rule)	\$0

15. Legal Action: The Board may turn over Property Violations to the District’s attorneys for legal action once the two (2) thirty (30) day periods described above have expired.
16. Covenant Liens: The Board may file covenant liens on any property within the Common Interest Community for violations that remain uncorrected subsequent to the issuance of a Fourth Notice for



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a continuing violation. The Board may consider any criteria in determining whether and when to file a covenant lien on any property. Such criteria may include recommendations submitted by the District Manager and/or Committee. All costs incurred by the District related to filing covenant liens will be charged back to the respective Property Accounts.

17. Fine Limitations: No limit exists on the amount of fines that may be accrued in accordance with the other provision of this Resolution on a Property Account for failure to comply with the covenants, rules and restrictions of the Common Interest Community. However, the District shall not levy fines on a Lot in excess of \$500 for each particular outstanding, continuing violation of the Covenants and/or Design Guidelines. Property Accounts with accrued, unpaid fines will be turned over to the District's attorneys for collection action in accordance with the Board's collection policy.
18. Acceleration of Fine Schedule – Threats to Health/Welfare/Safety: With respect to any violation of the Declaration or Design Guidelines that the District reasonably determines threatens the public safety or health, the District shall provide the Lot Owner an initial letter of the violation informing the Lot Owner that the Lot Owner has seventy-two (72) hours to cure the violation or the District may fine the Lot Owner. If after an inspection of the Lot, the District determines that the violation has not been cured within 72 hours of the District providing the initial notice, the District may levy fines on the property at the rate of \$50 every 48 hours (not to exceed \$500 cumulatively) until the violation is cured. The initial written warning notice must state (1) that, if the violation is not cured within 72 hours after the District has delivered such notice to the property Owner and/or resident, the District will levy fines on the property at the rate of \$50 every 48 hours until the violation is cured and (2) only one hearing will be allowed for the Lot Owner to address the Board regarding the violation.

Board Discretion Regarding Owner Appeals

19. Violation Classification: The Board reserves the right to determine whether identified violations on a Lot constitute one or more separate violations.
20. Waiver of Fines. The Board may waive all, or any portion, of the fines if, in its sole discretion, such waiver is appropriate under the circumstances. Additionally, the Board may condition waiver of the entire fine, or any portion thereof, upon the violation being resolved and staying in compliance with the respective Declarations, this Resolution and the Board's Covenant Violation Guidebook.
21. District Manager Fine Waiver Authority: The District Manager has the authority to waive up to \$100 in fines occurring within a calendar year on any Property Account if, in the District Manager's sole discretion, such waiver is appropriate under the circumstances. Any requests to waive more than \$100 in fines within a calendar year must be approved by the Board.
22. Owner Requests for Compliance Deadline Extensions: In situations where the Board agrees to an Owner's request to extend the compliance deadline for a violation, the District will continue to issue notices and assess fines in accordance with this Resolution. If the Owner corrects the violation within the extended compliance deadline, the District will reverse any fines accrued on the Property Account during the deadline extension period.



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Compliance Expectations

23. Failure to Identify Violations: Owners are responsible for identifying, correcting and preventing covenant violations from occurring on their Lots. The District's failure to identify one or more violations on a Lot does not constitute Board approval of such violations or prevent the Board from subsequently enforcing such violations, so long as the enforcement is in compliance with this policy
24. Owner Responsibilities:
 - A. Owners are responsible for maintaining their Lots in a manner that reasonably complies with the covenants and restrictions contained within the respective Declaration documents. The Board will hold Owners, who rent or lease their homes, responsible for the reasonable maintenance of their Lots—regardless of any contractual maintenance arrangements that may exist between Owners and their renters or between Owners and their property management companies. In addition, the Board will hold Owners, who use their Lots as their primary residence, responsible for the reasonable maintenance of their lots—regardless of the Owners' personal or business schedules that may cause the Owners to be away from their lots for extended periods of time.
 - B. Owners are responsible for being familiar with the covenants and restrictions contained within the respective Declarations and the Architectural Design Guidelines. In addition, Owners are responsible for being familiar with the Board's interpretations of various covenants and restrictions as provided in the Board's Covenant Violation Guidebook.
25. Rental Properties—No Reset on Turnover: Violation notices and fines will not be reset when a turnover in renter occupancy occurs on a Lot used as a rental property. Regardless of the contractual arrangements entered into between renters and Owners, Owners (not renters or other occupants of the Lot) are responsible to the District for ensuring their Lots are adequately maintained in a manner that complies with the covenants, conditions and restrictions of the Common Interest Community.
26. Change in Ownership—Violations Reset: Although violation notices and fines are attributed to the Lot rather than to the Lot Owner, the Board may reset any open violations back to a First Notice when a change in Lot ownership occurs. If the Board resets any violations due to a change in ownership of the Lot, the violation reset is offered as a courtesy to the new Owners but does not invalidate any previous violation notices. For purposes of this paragraph, a change in ownership occurs only when none of the original Owners on a lot's title become Owners on the newly issued title for the lot.
27. Location or Proximity of Lots to Open Spaces: Generally, the Board will not excuse violations (especially related to yard maintenance) because of a Lot's proximity to open spaces. (For example, Owners may indicate that weed violations on their Lots are due to the proximity of their Lots to unlandscaped open spaces.)
28. Compliance Deadlines: The compliance deadline date to correct a violation is the date by which the violation must be corrected. It is not the date by which Owners should start correcting the violation.
29. Results-Oriented Compliance Required: The act of taking corrective action does not itself constitute correction of a violation. For example, starting fence repairs, spraying weeds, scrubbing oil stained driveways, installing weed barriers and painting the house do not constitute compliance until such actions have been completed **and** the related violation has been adequately corrected.



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30. Violations Not Conditionally Excused: The Board will not excuse violations on an Owner Lot because violations may exist on other Owner Lots.

Violation Specific Policies

31. Black-out Period & Reset Conditions for Yard Maintenance: Yard maintenance deficiencies specifically related to (1) lawn mowing, (2) weeds and (3) turf disrepair are subject to violation notices between May 1st and October 31st. For the 6-month period between November 1st and May 1st, violation notices will not be issued for such deficiencies. Yard maintenance-related violations that remain open as of October 31st will be carried forward and treated as a continuous violation when such deficiencies are subject to inspection beginning after May 1st. Conversely, yard maintenance-related violations that are closed as of October 31st will not be carried forward and classified as a continued violation when yard maintenance deficiencies become subject to inspection again beginning on or after the subsequent May 1st.
32. Weed Violations: When Owners receive a violation notice regarding excessive weeds (e.g. weeds in the lawn, weeds in the rockbeds, weeds in the driveway, weeds throughout the Lot), Owners must correct such violations by removing such weeds. Applying chemicals and/or cutting down the height of weeds do not constitute correction of such violations.
- a) The Board encourages Owners to carry out preventative measures (e.g. apply weed and feed to lawns, install/replace weed barriers, spray weed killing chemicals on rockbeds, sidewalks, driveways) to ensure an excessive amount of weeds does not develop on their lots. However, when an excessive amount of weeds already exists on a Lot, the application of chemicals alone fails to properly address the issue of an unsightly Lot with an excessive amount of weeds.
 - b) Owners are required to remove weeds regardless of whether the Owners purposefully incorporate such weeds (e.g. “manicured” or trimmed weeds) into the overall landscaping plan for their Lot.
 - c) Weeds are defined in accordance with the Colorado-state listed Noxious Weed list as published by the Colorado State University CoOp Extension and includes all variations of dandelions, oxalis and bindweed.
33. Turf Disrepair: Owners who receive violations regarding the disrepair of the front lawn will have 28 calendar days from the date of the letter to correct the disrepair issues with their lawn. (All other types of violations are subject to the compliance timeline established in paragraph 4 and 5 of this Resolution.) The application of seed, fertilizer or other chemicals does not constitute a correction of a turf disrepair violation. Such actions are merely actions taken by an Owner to restore the damaged turf. Correction of a turf disrepair violation only occurs when the turf has returned to an acceptable condition as further defined in the Board’s Covenant Violation Guidebook.
34. Backyard Landscaping Maintenance Enforcement: For backyards that are visible to the public from public points of view (e.g. streets, sidewalks, open spaces), the District will issue violation notices if any such backyards fail to substantially comply with the requirements of the covenants and/or Design Guidelines. For backyards that are not visible from public points of view, the District will issue violation notices if (1) any such backyards fail to substantially comply with the requirements of the covenants and/or Design Guidelines and (2) a verifiable complaint is received from an Owner. A verifiable complaint is defined as a complaint from an Owner who allows the Board or Board



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representative access to the Owner's lot to gain a vantage point that allows visual verification of the Lot subject to the complaint.

For backyard violations that require the District representative to visually verify the violation from another Owner's lot, the Owner in violation is required—after receiving the violation notice—to provide the Board with evidence in the form of photos of the corrected violation or access to the Lot for inspection. The District may advance the violation in accordance with this Resolution if the Owner fails to provide the Board with satisfactory evidence that the violation has been corrected.

35. Violations Regarding Noxious Odors from Marijuana: Violation notices regarding noxious odors caused by marijuana plants may be closed if the Owner of the Property in Violation provides a written representation to the District that either no marijuana is being grown on the Property or the Property complies with City, County and State regulations regarding marijuana grow operations. If the Property is subsequently cited by any governmental entity for failing to comply with City, County or State regulations regarding the growing of marijuana on the Property, the Board will retroactively assess fines on the Property Account in accordance with this Policy. Fines will be retroactively assessed back to the original violation date, unless facts and circumstances provided to the Board indicate that fines should be retroactively applied to a different date at the Board's sole discretion.
36. Noise/Odor Violations: The respective Declarations prohibit "unreasonably offensive" sounds or odors to originate from any Lot. The District will issue a violation notice to an Owner of a Lot when one or more Owners submit a complaint regarding unreasonably offensive or disturbing noises or odors originating from such Lot. Violations will be advanced if two or more complaints are subsequently submitted by Owners within 8 weeks of issuing the previous violation. The District defers all complaints regarding barking dogs to the City's animal control or police.
37. Livestock and Poultry Restrictions: The respective Declarations prohibit livestock and poultry from being raised, bred or kept on any Lot but does allow for up to three domesticated animals. Pygmy goats, miniature goats, dwarf goats and chickens of any kind are considered livestock (regardless of whether such animals are purported to be domesticated) and are consequently prohibited.

Miscellaneous Policies

38. Other Enforcement Means. This Policy is adopted in addition to all other enforcement means which are available to the District through the respective Declarations and Colorado law. The use of this Policy does not preclude the District from using any other enforcement means.
39. Advice and Direction: Neither the Board nor its agents are responsible for or required to provide Owners with advice or direction on how to maintain their Lots. Owners are responsible for acquiring the knowledge, tools, experience and/or assistance necessary to ensure their Lots are adequately maintained in accordance with the covenants, conditions and restrictions applicable to the Common Interest Community.
40. Definitions. Unless otherwise defined in this Policy, initially capitalized or terms defined in the respective Declarations shall have the same meaning herein.
41. Supplement to Law. The provisions of this Policy shall be in addition to and in supplement of the terms and provisions of the respective Declarations and the laws of the State of Colorado.
42. Amendment. This Policy may be amended from time to time by the Board.



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**PRESIDENT'S
CERTIFICATION:**

The undersigned, being the President of the Lupton Village Residential Metropolitan District, certifies that the foregoing Resolution was adopted by the Board of Directors of the District, at a duly called and held meeting of the Board of Directors on September 14, 2023 and in witness thereof, the undersigned has subscribed his/her name.

Lupton Village Residential Metropolitan District

By: DocuSigned by:
Jeana Hughes
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Jeana Hughes, President