

RESOLUTION OF THE BOARD OF DIRECTORS OF LUPTON VILLAGE RESIDENTIAL METROPOLITAN DISTRICT

A RESOLUTION ADOPTING AN AMENDED AND RESTATED PUBLIC RECORDS POLICY REGARDING THE INSPECTION, RETENTION AND DISPOSAL OF PUBLIC RECORDS

WHEREAS, the Colorado Open Records Act (“Open Records Act”), as set forth in Sections 24-72-200.1 et seq., C.R.S., as amended, requires all public records of political subdivisions of the State to be open for inspection by any person at reasonable times except as otherwise provided in the Open Records Act; and

WHEREAS, the Colorado State Archives (the “State Archives”) has created a Special District Records Management Manual (“Retention Schedule”), which sets forth a timeline for special districts to retain and dispose of their public records; and

WHEREAS, on October 23, 2024 the Board of Directors (the “Board”) of Lupton Village Residential Metropolitan District (the “District”) adopted a Public Records Request Policy (the “Prior Public Records Request Policy”); and

WHEREAS, the Board of the District desires by this Resolution to adopt this Amended and Restated Public Records Policy regarding the inspection, retention and disposal of public records in compliance with the Open Records Act and pursuant to the State Archives’ Retention Schedule (“Public Records Policy”).

NOW THEREFORE, THE BOARD OF DIRECTORS OF LUPTON VILLAGE RESIDENTIAL METROPOLITAN DISTRICT HEREBY ADOPT THE FOLLOWING AMENDED AND RESTATED PUBLIC RECORDS POLICY:

1. Repeal of Prior Public Records Request Policy. The Prior Public Records Request Policy is hereby repealed in its and replaced with this Public Records Policy.
2. Definition of Public Records. The term “public records,” as used herein, shall have the same meaning given to such term in the Open Records Act.
3. Official Custodian. The District shall appoint an official custodian of the District’s public records annually in its annual resolution. The official custodian shall be responsible for the maintenance, care, and keeping of public records, regardless of whether the records are in his or her actual personal custody and control, as provided in the Open Records Act. All references herein to “custodian” shall mean the “official custodian” appointed as described herein.
4. Inspection of Public Records. All public records of the District shall be available for public inspection by any person at reasonable times as provided in the Open Records Act. All requests for public records shall be made in writing and submitted to the custodian of the District on the Request for Inspection/Copy of Public Records Request Form attached hereto as Exhibit A, and such requests shall comply with the requirements of the Open Records Act. The District and the custodian will comply with the requirements of the Open Records Act and any other federal or state laws with respect to whether it must, may, or cannot produce public records, or other documents or information requested, and the fees it charges for producing such public records, or other documents or information.

5. Receipt of Public Records Request. All requests to inspect public records shall be in writing and delivered to the official custodian. Upon the receipt of a written request to inspect public records, the custodian or his or her designee shall set a date and hour at which time the requested public records will be available for inspection, which date and hour of inspection shall be between the hours of 8:00 A.M. and 5:00 P.M., Mountain Standard Time. The custodian will provide public records within three (3) working days or less from the date such public records were requested for inspection unless extenuating circumstances exist as provided in Section 24-72-203(3)(b), C.R.S. The day the public records request is received, weekends, and legally recognized holidays shall not count as a working day for the purposes of computing the date set for inspection of public records. A modification to a request for public records is considered a new request.

6. Copies of Public Records. Within the period specified in Section 24-72-203(3), C.R.S., the official custodian or his or her designee shall notify the person requesting a copy of the public records that a copy of the public records is available but will only be sent to the requester once the Official Custodian either receives payment or makes arrangements for receiving payment for all costs associated with records transmission and for all other fees lawfully allowed, regardless of whether provided for herein, unless recovery of all or any portion of such costs or fees has been waived by the official custodian. Upon receipt of such payment, the official custodian or his or her designee shall send a copy of the public records to the requester as soon as practicable but no longer than the time period prescribed in the Open Records Act, or making arrangements to receive, such payment. Estimated charges are estimates only and actual costs shall be charged to the requester or public records once determined.

7. Fees for Copies of Public Records. The official custodian or his or her designee shall furnish, for a fee as set forth herein, a copy, printout, or photograph of the District's public records requested. The fee shall be twenty-five cents (\$0.25) per standard page, or such other maximum amount as authorized by Section 24-72-205(5), C.R.S., for a copy, printout, or photograph of the public record except as follows:

- a. No per-page fee may be charged when the District's public records are provided in a digital or electronic format;
- b. When the format is other than a standard page, the fee shall not exceed the actual cost of providing the copy, printout, or photograph;
- c. If other facilities are necessary to make a copy of the public records, the cost of providing the copy at the other facilities shall be paid by the person requesting the copy;
- d. If the public records are a result of computer output other than word processing, the fee for a copy, printout, or photograph thereof may be based on recovery of the actual incremental costs of providing the electronic services and products together with a reasonable portion of the costs associated with building and maintaining the information system;
- e. If, in response to a specific request, the District has performed a manipulation of data so as to generate a record in a form not used by the District, a reasonable fee may be charged to the person making the request, which fee shall not exceed the actual costs

of manipulating the data and generating the record in accordance with the request;
and

- f. Where the fee for a certified copy or other copy, printout, or photograph of a public record is specifically prescribed by law, that specific fee shall apply in lieu of the fee(s) set forth herein.

8. Research and Retrieval Fees. In addition to the fees set forth above, in accordance with Section 24-72-205(6), C.R.S., the official custodian or his or her designee may charge a research and retrieval fee of \$33.58 per hour, or such other maximum hourly fee as may be adjusted from time to time pursuant to Section 24-72-205(6)(b), C.R.S., for time spent by the District's directors, employees, agents, and consultants researching, retrieving, gathering, collecting, compiling, preparing, redacting, manipulating, and/or otherwise producing records in order to respond to a request for public records. Provided, however, that such research and retrieval fee may not be imposed for the first hour of time expended in connection with such research and retrieval activities related to a request for public records but may be imposed for each subsequent hour. For the avoidance of doubt, directors shall not receive any compensation whatsoever for their time researching, retrieving, gathering, collecting, compiling, preparing, redacting, manipulating, and/or otherwise producing records in order to respond to a request for public records.

9. Transmission of Copies of Public Records. In addition to the fees set forth above, where the person requesting the public records requests the transmission of a certified copy or other copy, printout, or photograph of a public record by United States mail or other non-electronic delivery service, the official custodian or his or her designee may charge the costs associated with such transmission, except that no transmission fees may be charged to the records requester for transmitting a public record via electronic mail.

10. Payment of Fees. All fees associated with the production of the District's public records requested by the person inspecting said public records, as set forth in Paragraphs 6 through 9 above, shall be received by the District before the delivery or inspection of said public records. If the District allows the public to pay for other services or products provided by the District with a credit card or other electronic payment method, the District shall allow the person requesting inspection of the public records to pay any fees or deposit associated with a record request via a credit card or other electronic payment method. In addition to the fees set forth in Paragraphs 6 through 9 above, the official custodian or his or her designee may also charge any service charge or fee imposed by the processor of a credit card or electronic payment.

11. Electronic Records and Signatures. Pursuant to Section 32-1-1001(1)(o), C.R.S., the Board hereby authorizes the use of electronic records and electronic signatures relating to a transaction. The use of electronic records and electronic signatures in a transaction shall be governed by the Uniform Electronic Transaction Act ("UETA"), as set forth in Sections 24-71.3-101 et seq., C.R.S., as amended.

- a. The term "electronic record" means a record created, generated, sent, communicated, received, or stored by electronic means. The term "electronic signature" means an electronic sound, symbol, or process attached to or logically associated with a record and executed or adopted by a person with the intent to sign the record. The term "transaction" means an action or set of actions occurring between two or more persons relating to the conduct of business, commercial, charitable or governmental affairs, except as otherwise provided by the UETA.

- b. The use of electronic records and signatures is authorized in transactions between and among the District, its directors, officers, agents, employees, and assigns, and third parties (collectively, the "Parties") that have agreed to conduct transactions by electronic means. Whether the Parties agree to conduct a transaction by electronic means is determined from the context and surrounding circumstances, including the Parties' conduct.
- c. An electronic record or electronic signature is attributable to a person if it was the act of the person. The act of the person may be shown in any manner, including a showing of the efficacy of any security procedure applied to determine the person to which the electronic record or electronic signature was attributable.
- d. If a law requires a signature or record to be notarized, acknowledged, verified, or made under oath, the requirement is satisfied if the electronic signature of the person authorized to perform those acts, together with all other information required to be included by other applicable law, is attached to or logically associated with the signature or record.

12. Electronic Mail Policy. Pursuant to Section 24-72-204.5, C.R.S., the Board hereby adopts the following electronic mail policy ("E-mail Policy") to establish guidelines for the responsible and efficient use of electronic mail ("E-mail") services and to clearly set forth the rights and responsibilities of the Districts' current and/or future employees, regarding their use of E-mail.

- a. E-Mail Defined. E-Mail means an electronic message transmitted between two or more computers or electronic terminals, whether or not the message is converted to hard copy format after receipt and whether or not the message is viewed upon transmission or stored for later retrieval. E-mail includes electronic messages that are transmitted through a local, regional, or global computer network.
- b. Scope of Policy. All E-mail communications and associated attachments transmitted or received over the District's network are subject to the provisions of this policy. Additionally, since Colorado law provides that E-mail communications written in the conduct of public business are generally considered to be public records, all E-mail communications written and sent in the conduct of public business by employees of the District is subject to applicable provisions of this E-mail Policy, regardless of whether the communication was sent or received on a public or privately-owned personal computer.
- c. Application of Public Records Statute to E-Mail. The Open Records Act treats electronic documents and files, including E-mails, in the same manner as paper documents. All such documents are generally considered to be public records and are subject to public inspection unless such documents are covered by a specific statutory exception. E-mail messages which are public records must be retained in either paper or electronic format in accordance with the Special District Records Retention Schedule adopted by the District. E-mail messages which are not public records should be deleted after viewing.
- d. Monitoring of E-Mail Communications by the District. The District does not intend to monitor E-mail usage by its employees, if any, in a regular or systematic fashion;

however, it does reserve the right to monitor such usage from time to time and without prior notice. Such monitoring may include tracking addresses of E-mails sent and received, accessing in-box messages, accessing messages in folders, and accessing archived messages. Furthermore, the District may disclose e-mail communications sent to, received by, or relating to an employee to law enforcement officials without giving prior notice to the employee.

13. Retention and Disposal of Public Records.

- a. Public Records Retention and Disposal Schedule. Subject to approval by the Colorado State Archives, the District hereby adopts the Retention Schedule located on the State Archives website at <https://www.colorado.gov/pacific/archives/special-districts-records-management-manual-0>, which schedule may be amended from time to time by the Colorado State Archives, for purposes of identifying all public records to be retained by the District for a specified time period as provided therein.
- b. Destruction of Public Records. Public records of the District shall be destroyed in accordance with the Retention Schedule by shredding, recycling, or disposing of such public records in a landfill; provided, however, that those public records of the District deemed to be confidential in nature shall be destroyed by shredding or destroyed professionally by a company that can certify to the security of the destruction. Furthermore, no public records of the District shall be destroyed pursuant to the Retention Schedule so long as such public records pertain to any pending legal case, claim, action or audit involving the District or if the District's legal counsel determines such documents should be retained for other purposes.

14. Conflicts. In the event of a conflict between a provision set forth in this Public Records Policy and the Open Records Act, or this Public Records Policy and any other federal or state law including the UETA, the federal or state law provision shall control and this Public Record Policy shall be deemed amended to comply with all federal or state law provisions without further action by the Board.

15. Amendments to Public Records Policy. The Board may amend this Public Records Policy from time to time as the Board deems necessary.

16. Effective Date. This Public Records Policy shall take effect on the date and at the time of its adoption.

ADOPTED AND APPROVED this 23RD day of October 23, 2024.

LUPTON VILLAGE RESIDENTIAL METROPOLITAN
DISTRICT

Signed by:
Jeana Hughes
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Jeana Hughes, Board President

ATTEST:

Signed by:
Brad Kaatz
3E543FFBC86D4FD...

Brad Kaatz, Board Secretary

EXHIBIT A

CORA REQUEST FORM