

BOARD OF DIRECTORS FOR LEWIS POINTE METROPOLITAN DISTRICT

RESOLUTION ESTABLISHING POLICY, PROCEDURES AND PENALTIES FOR THE ENFORCEMENT OF THE GOVERNING DOCUMENTS (“POLICY”)

WHEREAS, Lewis Pointe Metropolitan District (the District) is a quasi-municipal corporation and political subdivision of the State of Colorado; and

WHEREAS, the property within the District’s boundaries is subject to that certain Declaration of Covenants, Conditions and Restrictions for Lewis Pointe, recorded in the real property records of the Clerk and Recorder of Adams, Colorado on July 08, 2015 at Reception Number 2015000053960 (the "Declaration"); and

WHEREAS, pursuant to the Declaration, the District is responsible for providing covenant enforcement, architectural review approval, and other administrative services for the Property within the District and subject to the Declaration; and

WHEREAS, the Board of Directors is committed to adopting a policy in compliance with Colorado law, including C.R.S. § 32-1-1004.5, to ensure the protection of the health, safety, and welfare of the residents and property owners of the District; to preserve property values; enhance the quality of life for all District residents; and provide a fair and consistent enforcement process of all of the District’s “Governing Documents” which shall include the Declaration; and

WHEREAS, it is the intent that this policy resolution shall be applicable to all Owners regarding the enforcement of all of the District’s Governing Documents; and

WHEREAS, the Board desires to adopt this Policy.

NOW, THEREFORE, the Board hereby RESOLVES:

The following policies and procedures are established regarding the enforcement of the District’s Governing Documents:

A. Definitions. For the purpose of this policy, the following definitions shall apply regarding the types of Violation and Notices:

1. “**Continuous Violation**” refers to a violation that is ongoing, uninterrupted by time, and may take time to cure.

Examples: Roof or house requiring maintenance, unapproved structure, lawn and tree health.

Forty-Five (45) calendar days to cure.

2. **“Repetitious Violation”** refers to a violation that occurs at a set point in time and does not require time to cure.
Examples: Parking of a restricted vehicle in the community, trash cans out beyond the time allowed, weeds on the property.
Seven (7) calendar days to cure.
 3. **“Impartial Decision Maker”** is defined under Colorado law (C.R.S. § 32-1-1004.5) and refers to a person or group of persons who have the authority to make decisions regarding the enforcement of the District’s Governing Documents and does not have any direct personal or financial interest in the outcome. Unless otherwise disqualified pursuant to the definition of Impartial Decision Maker, the Board may appoint the entire Board, specified members of the Board, or any other individual or group of individuals to act as the Impartial Decision Maker.
- B. **Enforcement Policy.** The District may enforce the Governing Documents through administrative proceedings or judicial action, and any non-compliance with the Governing Documents by any owner, renter, or guest will be the responsibility of the owner (“the Owner”) of the respective property subject to this Policy. This Policy is intended to serve as guidance to the Board and the District’s authorized representative (the “District Representative”) and does not limit or restrict the authority of the Board. The Board may intervene at any time with respect to any authority granted to or action undertaken by the District Representative. In addition, this Policy shall not supersede the procedures for approval, disapproval, or notice of noncompliance related to improvements as set forth in the Governing Documents.
- C. **Investigative Procedure.** Upon receipt of a written complaint alleging a violation of the Governing Documents, the District Representative shall conduct an investigation to determine whether a violation of the Governing Documents has occurred.
- D. **Enforcement Process for Continuous Violations.** Upon determining that a Continuous Violation has occurred, the District Representative and the Board shall take the following steps:
1. **First Violation/Advisory Notice.** If the District Representative determines that a Continuous Violation of the Governing Documents exists, either through the investigative process, or through independent inspections or observations of the District Representative, and that it is the responsibility of a particular Owner, the District Representative will send an Advisory Notice to the Owner by first-class United States mail to the address of the Owner of the property according to the District’s records (“Owner’s Address”). If, in the discretion of the District Representative, the Continuous Violation requires more than 45 days to cure, the District Representative may extend the cure period or require the Owner to

commence such cure within 30 days of the date of the Advisory Notice and diligently prosecute the same to completion. If additional time is requested, the Owner must contact the District Representative in writing or in email with an explanation.

2. Second Violation/Hearing Notice. If an Owner fails to cure (or provide adequate proof that he or she is diligently seeking to cure, if applicable) a Continuous Violation within 45 days of the date of the Advisory Notice, or 30 days if such time period to cure is extended, this shall be considered a Second Violation for which a fine may be imposed. The District Representative shall send a Second Violation Notice which acts as a notice of complaint and offers an opportunity to be heard. This notice informs the owner of the Continuous Violation and of the potential fines that may be imposed if the Violation is not cured. The Notice shall further state that the Owner is entitled to a hearing on the merits of the matter provided that such hearing is requested in writing or email by the Owner within Ten (10) days of the date of the Second Violation Notice. The District may impose additional fines with each Continued Violation without providing the owner an opportunity to be heard thereafter.
3. Third/Continued Violation. If the Owner has not requested a hearing within 10 days of the date of the Second Violation Notice nor cured the Violation or made arrangements to cure the Violation and communicated such arrangements to the District Representative in writing or email within 10 days of the Second Violation Notice, this shall be considered a Third Violation for which a fine shall be imposed. The District Representative shall send a Third Violation Notice to the Owner, demanding that the Owner cure the Continued Violation and informing the Owner that a fine has been imposed on the Owner's account pursuant to the fine schedule set forth in Paragraph I below.
4. Fourth/Continued Violation. If the Violation remains uncured 14 days after the date of the Third Violation Notice or the Owner has not made arrangements to cure the Violation and communicated such arrangements to the District Representative in writing or email within 10 days of the first Advisory Notice, this shall be considered a Fourth Violation for which an additional fine shall be imposed. A Fourth Violation Notice shall be sent to the Owner and shall advise the Owner of the imposition of an additional fine, pursuant to the fine schedule set forth in Paragraph I of this Policy.
5. Daily Fines. In the event a Violation continues to exist uninterrupted 14 days after the date of the Fourth Violation Notice, the District may in its discretion, in addition to any other remedy, send the Owner a notice of Daily Fines ("Daily

Fine Notice”) and thereafter impose a fine of up to one-hundred dollars (\$100.00) for every subsequent day that a Continuous Violation exists.

- E. Enforcement Process for Repetitious Violations. Upon determining that a “Repetitious Violation” has occurred, the District Representative and Board shall take the following steps:
1. First Violation/Advisory Notice. If the District Representative determines that a Repetitious Violation of the Governing Documents has occurred, either through the investigative process, or through independent inspections or observations of the District Representative, and that it is the responsibility of a particular Owner, the District Representative will send an Advisory Notice to the Owner by first-class United States mail to the address of the Owner according to the District’s records (“Owner’s Address”).
 2. Second Violation/Hearing Notice. If an Owner subsequently violates the same covenant or rule within 180 days of date of the Advisory Notice, each such instance shall constitute a separate Repetitious Violation for which fines may be imposed pursuant to the fine schedule set forth in Paragraph I. Upon the occurrence of each subsequent Violation, the District representative shall send the owner a Repetitious Violation Notice, notice advising the owner of the Violation and of the fine to be imposed. The Violation Notice shall further state that the Owner is entitled to a hearing on the merits of the matter provided that such hearing is requested in writing or by email by the Owner within 10 days of such notice. The District may impose additional fines with each Repetitious Violation Notice sent after the Second Notice without providing the owner with the opportunity for a hearing thereafter.
 3. Third and Subsequent Violations/Repeated Violation Notice. If the Owner has subsequent violations of the same covenant or rule within 180 days of the date of the Second Violation Notice, each such instance shall constitute a separate Violation for which fines may be imposed pursuant to the fine schedule set forth in Paragraph I. Upon the occurrence of each subsequent Violation, the District Representative shall send the Owner a notice advising the Owner of the Repeated Violation and of the fine to be imposed.
- F. Hearing on Violation. If a hearing is requested by the Owner, the District Representative shall notify the Owner in writing or by email of the date, time, and place of the hearing at least 10 days prior to the hearing. Hearings regarding violations of the Governing Documents shall be conducted by an Impartial Decision Maker.

- G. Failure to Attend or Request Hearing. In the event any Owner fails to request a hearing within 10 days of the date of the Second Notice, no hearing shall be required. Failure to request a hearing or failure to appear at a requested hearing will result in the Owner being deemed to have admitted and acknowledge the violation and the Owner will thereafter be subject to all fines and penalties assessed in connection with the violation. After offering an Owner the opportunity for a hearing in the Second Notice, regardless of whether the Owner requests a hearing or not, the District need not offer the opportunity for a hearing for any additional fines to be imposed for failure to cure a Continuous Violation or for a subsequent instance of a Repetitious Violation.
- H. Decision Notice. After the District has taken the steps as outlined above, and in the event a hearing was requested and held, upon a finding being reached, the District Representative shall send a Notice of Determination to the Owner's address informing them of the Impartial Decision Maker's findings. If the Impartial Decision Maker finds the Owner is in violation of the Governing Documents, the District may revoke or suspend the Owner's privileges, impose fines in accordance with the fine schedule set forth in Paragraph I below and take such other actions as it may deem necessary or appropriate to assure compliance with the Governing Documents.
- I. Fine Schedule. The following fine schedules are adopted for any and all violations of the Governing Documents.

Continuous Violations:

First Violation (Advisory Notice)	No Penalty
Second Violation (Second Violation Notice)	\$100.00
Third Violation (Continuous Violation Notice)	\$250.00
Fourth Violation (Continuous Violation Notice)	\$500.00
Fifth Violation (Daily Fine Notice)	Up to \$100.00 per day

Repetitious Violation:

First Violation (Advisory Notice)	No Penalty
Second Violation (Second Violation Notice) of the same covenant or rule within 180 days of the Advisory Notice	\$100.00
Subsequent Violations (Repetitious Violation Notice) of the same covenant or rule within 180 days of the Second Violation Notice	\$250.00

- J. Violations or Offenses that Constitute a Present Danger. If a violation concerns a serious or immediate risk to the health, safety, or welfare of person or property, the District Representative shall seek to obtain prompt action by the Owner to correct the violation and avoid any reoccurrence, and the procedural requirements under this Policy may be

waived by the Board and a hearing scheduled as soon as possible. The Board may impose sanctions as necessary to abate any threat to health, safety, or welfare of any person or property.

- K. Waiver of Fines and Other Amounts. The District may determine enforcement actions on a case-by-case basis and take other actions as it may deem necessary or appropriate to assure compliance with the Governing Documents. The District Representative and/or the Board may, either in their/its sole discretion, waive all or any portion of any fines and other amounts levied under this Policy. Additionally, the District Representative and/or the Board may condition waiver of any fine or other amounts, upon the Owner coming into and staying in compliance with the Governing Documents.
- L. Other Enforcement Means. The provisions of this Policy shall be in addition to all other enforcement means which are available to the District through the Governing Documents, or by law. Application of this Policy does not preclude the District from using any other enforcement means, including, but not limited to the recording of liens, certification to assessments related specifically to covenant enforcement and design review services and any other legal or equitable remedies available to the District.
- M. Legal Action. Any violation of the Governing Documents may, in the discretion of the Board, be turned over to legal counsel to take appropriate legal action either in lieu of, or in addition to, the imposition of any fines or other penalties under this Policy, and Owners shall be responsible for all attorneys' fees and costs incurred in enforcing this Policy and in collecting amounts due and owing the District.
- N. Certification of Account to County Treasurer. Pursuant to 32-1-1004.5.3(b)(III) C.R.S., the board may elect, by resolution, at a public meeting held after issuing notice via certified mail to the respective Property owners, to certify any delinquent fees, rates, tolls, fines, penalties, charges, and/ or assessments made or levied specifically for covenant enforcement and design review services satisfying the criteria established therein to paid over by the County Treasurer in the same manner as taxes are authorized to be collected by the County Treasurer. The certification process may be performed by the District Manager, Special Counsel or General Counsel to the District in addition to or in lieu of any procedures set forth in this Policy in the Board's sole discretion. The fees for the certification process shall be in accordance with Colorado law and the county's policy.
- O. Disputes. In the event of any dispute involving the District and an Owner related to the enforcement of any covenants or design review services, the Owner may request to meet with the Board to resolve the dispute informally and without the need for additional enforcement actions. If the owner requests to meet with the Board the Board shall make a

reasonable effort to comply with the owner's request. Nothing in this section shall be construed to require any specific form of alternative dispute resolution, such as mediation or arbitration, or require the parties to meet. Neither the District nor the Owner waives any rights to pursue whatever legal or other remedial actions available to either party.

- P. Payment. Payment for all fines shall be by check or equivalent form acceptable to the District, made payable to "Lewis Pointe Metropolitan District" and sent to the designated payment address, on or before the assessment due date (as specified in the Collections Policy). The District may change the payment address from time to time and such change shall not require an amendment to this Policy.
- Q. Severability. If any term, condition or provision of this Policy shall, for any reason, be held to be invalid or unenforceable, the invalidity or unenforceability of such term, condition or provision shall not affect any other provision contained in this Policy, the intention being that such provisions are severable. In addition, in lieu of such void or unenforceable provision, there shall automatically be added as part of this Policy a provision similar in terms to such illegal, invalid or unenforceable provision so that the resulting reformed provision is legal, valid and enforceable.
- R. Effective Date. This Resolution shall become effective immediately and shall supersede in its entirety any prior resolution.

DISTRICT:

Lewis Pointe Metropolitan District, a quasi-municipal corporation and political subdivision of the State of Colorado.



By: _____

Officer of the District

Attest:

By: Amy Jones

Board Secretary