

RESOLUTION 2024-04
A RESOLUTION OF THE BOARD OF DIRECTORS OF
CUMBERLAND GREEN METROPOLITAN DISTRICT

REGARDING POLICIES, PROCEDURES, AND PENALTIES
FOR THE ENFORCEMENT OF THE GOVERNING DOCUMENTS AND DISPUTE
RESOLUTION

WHEREAS, Cumberland Green Metropolitan District (the “**District**”) is a quasi-municipal corporations and political subdivisions of the State of Colorado; and

WHEREAS, pursuant to the terms and conditions of the Master Declaration of Covenants Conditions and Restrictions of Cumberland Green recorded in the real property records of the Clerk and Recorder of El Paso County, Colorado at Reception No. 206082765, on June 6, 2006, (the “**Covenants**”), the District is permitted to send demand letters and notices, levy and collect fines and interest, impose liens, and negotiate, settle and take any other actions with respect to any violations or alleged violations of the Governing Documents (as defined below); and

WHEREAS, the Board of Directors (the “**Board**”) of the District is authorized to promulgate adopt, enact, modify, amend, repeal, and re-enact rules and regulations concerning and governing the Property (as that term is defined in the Covenants); and

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

WHEREAS, such fees, rates, tolls, penalties, or charges, until paid, shall constitute a perpetual lien on and against the property served; and

WHEREAS, the Board desires to establish policies, procedures and penalties for violations of the Covenants, any guidelines, rules and regulations, and other policies and procedures of the District, as the same may be adopted, amended and supplemented from time to time (collectively, the “**Governing Documents**”); and

WHEREAS, the Board desires to adopt a policy addressing disputes between the District and one or more Owners related to the enforcement of the Governing Documents; and

WHEREAS, on July 12, 2021, the Board adopted Resolution 2021-02, Resolution of the Board of Directors of the District Regarding Policies, Procedures and Penalties for the Enforcement of the Governing Documents and the Board adopted the Cumberland Green Penalty Policy contained within the Design Guidelines dated October 10, 2006 (collectively, the “**Prior Policies**”), and the Board desires to adopt this Resolution 2024-04 to amend and restate the Prior Policies in their entirety; and

WHEREAS, the District shall make a copy of this Resolution once adopted available to Owners on the District’s website that the District is required to maintain.

NOW THEREFORE, the Board hereby adopts this Resolution and the following policies and procedures:

1. Intent of District. This Resolution is adopted 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 the Governing Documents.

2. Enforcement Policy. The District may enforce the Governing Documents through administrative proceedings or judicial action. Any non-compliance with the Governing Documents by any owner, renter or guest will be the responsibility of the owner of the respective property subject to this Resolution (the “**Owner**”). This Resolution is intended to serve as guidance to the Board and the District’s authorized representative(s) (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 Resolution shall not supersede the procedures for approval, disapproval, or notice of noncompliance related to improvements as set forth in the Governing Documents.

3. Investigative Procedure. Upon receipt of a written complaint alleging a violation of the Governing Documents, the District Representative will conduct an investigation to determine whether a violation of the Governing Documents has occurred. The submitter of the complaint shall provide a statement describing the alleged violation, shall identify themselves, the alleged violator, if known, the date on which the violation exists or occurred, and provide 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 District.

4. Enforcement Process for Continuous Violations. Upon determining that a “**Continuous Violation**” (defined as a violation that is ongoing, uninterrupted by time and may take time to cure, such as installing an unapproved structure on a property or neglecting to maintain the exterior appearance of a property) has occurred, the District Representative and the Board shall take the following steps:

a. Continuous Violation Warning Letter. If the District Representative determines that a Continuous Violation of the Governing Documents exists, either through the investigative process as set forth above, or through independent inspections or observations of the District Representative, the District Representative will send an “**Continuous Violation Warning Letter**” via first-class United States mail to the last known Owner of the Property according to the District’s records notifying the Owner of: (i) the restriction violated and the nature of the violation, (ii) the action or actions required to cure the violation, (iii) that the Owner must have the Continuous Violation corrected within 15 calendar days of the date of the Continuous Violation Warning Letter, (iv) the right to request a hearing before an Impartial Decision Maker (defined below) and the timeline for the hearing process, and (v) that failure to timely cure the Continuous Violation may result in potential fines or other sanctions. If, in the discretion of the District Representative, the Continuous Violation requires more than 15 days to cure, the District Representative may extend the cure period or require the Owner to commence such cure within 15 days of the date of the Continuous Violation Warning Letter and diligently prosecute the same to completion. In the event the above mailing is returned as undeliverable, the District may send a second copy of the Continuous Violation Warning Letter to: (1) the Property; and (2) the address of the last known owner of the Property as

found in the real property records of the county Assessor's Office for the county in which the District is located (collectively, the "**Property Address**"). The District Representative may deviate from the mailing destinations as included in the Property Address if requested by the Owner in writing. Upon receipt of any notice regarding a Continuous Violation, an Owner may request a hearing to contest the alleged violation or may propose arrangements to cure the violation to the District Representative. A District Representative may approve or deny arrangements to cure a Continuous Violation based on what is reasonable under the circumstances. If a District Representative denies arrangements for curing a Continuous Violation they must provide the Owner notice in writing prior to imposing any fines ("**Denial Letter**"). The Denial Letter shall further state the reasoning for the denial and that the Owner is entitled to a hearing on the merits of the matter provided that such hearing is requested in writing by the Owner within 15 (fifteen) days of the date of the Denial Letter.

b. Notice of Complaint and Opportunity to Be Heard. If the Owner has not cured the Continuous Violation or made arrangements to cure the Continuous Violation and communicated such arrangements to the District Representative in writing within 15 (fifteen) days of the Continuous Violation Warning Letter, this shall be considered a second violation for which a \$75.00 (seventy-five dollar) fine will be imposed. The District Representative shall send a notice of complaint and opportunity to be heard ("**Violation and Fine Notice**") to the Owner at the Owner's address notifying the Owner of the Continuous Violation and that a fine will be imposed on the Owner's account pursuant to the fine schedule set forth in Paragraph 10 if the violation is not cured or no hearing is requested as set forth below. The Violation and Fine 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 by the Owner within 15 (fifteen) days of the date of the Violation and Fine Notice. The District will impose additional fines with each notice sent after the Fine Notice without the necessity of providing the Owner with the opportunity for additional hearings thereafter.

c. Notice of Continuous Violation and Fine. If the Continuous Violation remains uncured 15 (fifteen) days after the date of the first Violation and Fine Notice or the Owner has not made arrangements to cure the Continuous Violation and communicated such arrangements to the District Representative in writing within 15 (fifteen) days of the first Violation and Fine Notice, this shall be considered an ongoing violation for which a \$150.00 (one hundred, fifty dollar) fine will be imposed. Any such time the Continuous Violation remains uncured after further subsequent 15 days, a notice and fine amounting to \$150.00 (one-hundred, fifty dollars) will be mailed to the Owner advising him of the imposition of an additional fine, pursuant to the fine schedule set forth in Paragraph 10 of this Resolution ("Continuous Violation and Fine Notice").

5. Enforcement Process for Repetitious Violations. Upon determining that a "**Repetitious Violation**" (defined as a violation that occurs at a set point in time and does not require time to cure, such as the parking of a restricted vehicle in the community or leaving trash cans out beyond the time allowed) has occurred, the District Representative and Board shall take the following steps:

a. Repetitious Violation Warning Letter. If the District Representative determines that a Repetitious Violation of the Governing Documents has occurred, either

through the investigative process as set forth above, or through independent inspections or observations of the District Representative, the District Representative will send an **"Repetitious Violation Warning Letter"** via first-class United States mail to the last known owner of the Property according to the District's records notifying the Owner of: (i) the restriction violated and the nature of the Repetitious Violation, (ii) the action or actions required to cure the violation, which in the case of Repetitious Violations will be ceasing from the conduct giving rise to the violation, (iii) the right to request a hearing before an Impartial Decision Maker (defined below) and the timeline for the hearing process, and (iv) that any subsequent violations of the same restriction within 180 (one-hundred, eighty) days of the date of the Repetitious Violation Warning Letter may result in the imposition of fines. In the event the above mailing is returned as undeliverable, the District may send a second copy of the Repetitious Violation Warning Letter to the Property Address.

b. Notices of Repetitious Violations. If an Owner subsequently violates the same covenant or rule within 180 (one-hundred, eighty) days of the date of the Repetitious Violation Warning Letter, each such instance shall constitute a separate Repetitious Violation for which notice and a fine of \$75.00 (seventy-five dollars) will be imposed pursuant to the fine schedule set forth in Paragraph 10 (**"Repetitious Violation and Fine Notice"**). The Repetitious Violation and Fine 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 by the Owner within 15 (fifteen) days of such first Repetitious Violation and Fine Notice. Upon the occurrence of each subsequent Repetitious Violation, the District Representative shall send the Owner a notice (**"Continuing Repetitious Violation and Fine Notice"**) advising the Owner of the Continuing Violation and the \$150.00 (one-hundred, fifty dollar) fine to be imposed. The District may impose additional fines with each Continuing Repetitious Violation and Fine Notice sent after the first Repetitious Violation and Fine Notice without the necessity of providing the Owner with the opportunity for a hearing thereafter.

6. Impartial Decision Maker. Pursuant to Colorado law, an Owner has the right to be heard before an **"Impartial Decision Maker"**. An Impartial Decision Maker is defined under Colorado law as a person or group of persons who have the authority to make a decision regarding the enforcement of the District's Governing Documents, including architectural requirements, and does 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 that of other owners subject to the same Governing Documents. 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, any other individual or group of individuals. If the Impartial Decision Maker is the Board or other group of persons, a decision, either a finding for or against an Owner, shall be by a majority vote of those persons serving as the Impartial Decision Maker.

7. Hearing on Violation. If a hearing is requested by the Owner pursuant to Paragraph 4.a, 4.b, 5.a or 5.b above, the District Representative shall notify the Owner of the date, time and place of the hearing at least 10 (ten) days prior to the hearing. Hearings regarding violations of the Governing Documents shall be conducted by an Impartial Decision Maker. At the beginning of each hearing, the Impartial Decision Maker will explain the rules, procedures and guidelines by

which the hearing will be conducted. The complaining parties and the Owner will have the right, but not the obligation, to attend the hearing. Each party may present evidence, testimony, and witnesses. The decision will be based on the matters set forth in the notice of alleged violation and evidence as may be presented prior to or at the hearing.

8. Failure to Attend or Request Hearing. In the event any Owner fails to request a hearing within 15 (fifteen) days of the date of the Fine Notice or the first Repetitious Violation and Fine Notice, no hearing shall be required. Failure to request a hearing or to dispute the alleged violation will result in the Owner being deemed to have admitted and acknowledged the violation and the Owner will thereafter be subject to all fines and penalties assessed in connection with the violation. If an Owner disputes the alleged violation, but does not request a hearing, or requests a hearing, but fails to appear at the scheduled hearing, the Impartial Decision Maker will base its decision on the matters set forth in the violation notices and any other evidence obtained prior to the scheduled hearing that the Impartial Decision Maker deems relevant. The Impartial Decision Maker shall decide if the alleged violation actually occurred and, if so, whether the Owner is responsible for that violation. After offering an Owner the opportunity for a hearing in the Violation and Fine Notice or the Repetitious Violation and Fine Notice, as applicable, regardless of whether the Owner then 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 subsequent instances of the same Repetitious Violation

9. Decision. After the District has taken the hearing steps as outlined above, and in the event a hearing is requested and held, upon a finding being reached, the District Representative shall send notice of determination (“**Notice of Determination**”) to the Owner’s Address informing the Owner of the Impartial Decision Maker’s findings within a reasonable time, not to exceed 15 (fifteen) days. 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 10 below and take such other actions as it may deem necessary or appropriate to assure compliance with the Governing Documents.

10. Fine Schedule. The following fine schedule is adopted for any and all violations of the Governing Documents.

For Continuous Violations:

Violation Warning Letter	\$ 0.00
Violation and Fine Notice	\$ 75.00
Continuing Violation and Fine Notice	\$150.00

For Repetitious Violations:

Violation Warning Letter	\$ 0.00
Repetitious Violation and Fine Notice	\$ 75.00
Continuing Repetitious Violation and Fine Notice	\$150.00

11. Perpetual Lien. Pursuant to C.R.S. §32-1-1001(1)(j)(I), the Board is authorized to fix and from time to time increase or decrease, fees, rates, tolls, penalties, or charges for services, programs, or facilities furnished by the District. Until paid such fees, rates, tolls, penalties, or charges, until paid, shall constitute a perpetual lien on and against the property served.

12. 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 Resolution 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.

13. 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 its sole discretion, waive all or any portion of any fines and other amounts levied under this Resolution. Additionally, the District Representative and/or the Board may condition waiver of any fine or other amount(s), upon the Owner coming into and staying in compliance with the Governing Documents.

14. Other Enforcement Means. The provisions of this Resolution 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 Resolution does not preclude the District from using any other enforcement means, including, but not limited to the recording of liens, certification to the county Treasurer's Office of delinquent fees, rates, tolls, fines, penalties, charges and/or assessments related specifically to covenant enforcement and design review services and any other legal or equitable remedies available to the District.

15. Legal Action. Any violation of the Governing Documents may, in the discretion of the Board, be turned over to legal counsel engaged for covenant enforcement matters ("Special Counsel") to take appropriate legal action either in lieu of, or in addition to, the imposition of any fines or other penalties under this Resolution, and Owners shall be responsible for all attorneys' fees and costs incurred in enforcing this Resolution and in collecting amounts due and owing the District.

16. Certification of Account to County Treasurer. Pursuant to C.R.S. §32-1-1004.5(3)(b)(III), the Board may elect 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 the county Treasurer's Office for collection with the District's ad valorem property taxes. The certification process may be performed by the District Representative, Special Counsel or general counsel to the District in addition to or in lieu of any procedures set forth in this Resolution in the Board's sole discretion. The fees for the certification process shall be in accordance with Colorado law and the county's policy.

17. Disputes. In the event of any dispute involving the District and one or more Owner related to the enforcement of any covenants, design review services, or any of the Governing Documents enforced by the District, 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.

Any controversy between the District and an Owner that arises out of the District's enforcement of this Resolution or other Governing Documents may be submitted to mediation by agreement of

the parties prior to the commencement of any legal proceeding. Either party to the mediation may terminate the mediation process without prejudice. 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 right to pursue whatever legal or other remedial actions available to either party.

18. Deviations. The District may deviate from the procedures set forth herein if, in its sole discretion, such deviation is reasonable under the circumstances.

19. Amendment. The policies, procedures and fine schedule set forth in this Resolution may be supplemented and/or amended from time to time by the District, in its sole and absolute discretion.

20. Payment. Payment for all fines shall be by check, money order, or cashier's check to the District, made payable to Fromm & Co, LLC, 8200 S Quebec St, Ste A3-305, Centennial, Colorado 80112. The District may change the payment address from time to time and such change shall not require an amendment to this Resolution.

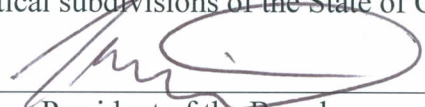
21. Severability. If any portion of this Resolution is declared by any court of competent jurisdiction to be void or unenforceable, such decision shall not affect the validity of any remaining portion of this resolution, which shall remain in full force and effect. In addition, in lieu of such void or unenforceable provision, there shall automatically be added as part of this Resolution a provision similar in terms to such illegal, invalid or unenforceable provision so that the resulting reformed provision is legal, valid and enforceable.

22. Effective Date. This Resolution shall become effective immediately upon adoption by the District Board and shall supersede in its entirety the Prior Policies.

NOW THEREFORE, BE IT RESOLVED by the Cumberland Green Metropolitan District, El Paso County, Colorado, that this Resolution is adopted and approved this 10th day of December, 2024.

[Signatures on Following Page]

CUMBERLAND GREEN METROPOLITAN DISTRICT, a quasi-municipal corporations and political subdivisions of the State of Colorado

By: 
Vice President of the Board

ATTEST:

By: 
Secretary of the Board

APPROVED AS TO FORM:

ORTEN CAVANAGH HOLMES & HUNT, LLC
Attorneys at Law

Special Counsel to the District