

**RESOLUTION 2024-06**  
**A RESOLUTION OF THE BOARD OF DIRECTORS OF**  
**CUMBERLAND GREEN METROPOLITAN DISTRICT**

**AMENDING PORTIONS OF THE RULES AND REGULATIONS**  
**FOR THE ENFORCEMENT OF THE GOVERNING DOCUMENTS**

**WHEREAS**, Cumberland Green Metropolitan District (the “**District**”) is a quasi-municipal corporation and political subdivision 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**”), and the District’s Resolution 2024-04 Regarding Policies, Procedures and Penalties for the Enforcement of the Governing Documents, dated December 10, 2024 (“**Enforcement Policy**”), 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**, the Board adopted the Cumberland Green Design Guidelines -Rules and Regulations dated October 10, 2006 (the “**Rules and Regulations**”);

**WHEREAS**, the Rules and Regulations along with the Covenants and other policies, procedures and resolutions of the District, as may be adopted, amended and supplemented from time to time, are collectively referred to herein as the “**Governing Documents**”;

**WHEREAS**, the Board desires to amend and update certain portions of the Rules and Regulations to comply with HB 24-1267 *Concerning Requiring a Metropolitan District Engaging in Covenant Enforcement to Comply with Certain Policies Related to Covenant Enforcement*; and

**WHEREAS**, the Board desires to adopt this Resolution to amend and update portions of the Rules and Regulations; and

**WHEREAS**, in furnishing covenant enforcement and design review services, the Board of the District shall comply with the procedural requirements set forth in the District’s Enforcement Policy along with HB 24-1267 and C.R.S. § 32-1-1004-5; and

**WHEREAS**, in the event of a dispute in the enforcement of the Rules and Regulations, as amended, the District and Owners shall follow the dispute resolution procedures set forth in the Enforcement Policy; and

**WHEREAS**, the District shall make a copy of the written policy adopted available Property Owners on the District’s website that the District is required to maintain.

**NOW THEREFORE**, the District adopts this Resolution amending its Rules and Regulations. Owners should read this Resolution in conjunction with the District's Rules and Regulations for the District.

1. Amendment to Rules. Notwithstanding any provision in the Rules and Regulations to the contrary, the District shall not:
  - A. Prohibit the display of a flag on an Owner's Site, as defined in the Covenants ("**Owner's Property**"), in a window of the Owner's Property or on a balcony adjoining the Owner's Property. The District shall not prohibit or regulate the display of flags on the basis of their subject matter, message, or content; except that the District may prohibit flags from bearing commercial messages. The District may adopt reasonable, content-neutral rules to regulate the number, location, and size of flags and flagpoles but shall not prohibit the installation of a flag or flagpole. The District's Rules limit flags to one flag on each Owner's Property.
  - B. Prohibit the display of a sign by the owner or occupant on the Owner's Property within the boundaries of the Owner's Property or in a window of the Owner's Property. The District shall not prohibit or regulate the display of window signs or yard signs on the basis of their subject matter, message, or content, except that the District may prohibit signs bearing commercial messages. Advertising signs and trade signs are considered commercial and are subject to the current Rules on display of signs. All other signs require prior approval as to number, location, and size, but not content. The District may establish such other reasonable, content-neutral rules to regulate signs based on the number, placement, or size of the signs or on other objective factors in its Rules and Regulations.
  - C. Prohibit the parking of a motor vehicle by the occupant of the home on the driveway of the Owner's Property if the vehicle is required to be available at designated periods at the Owner's Property as a condition of the Owner's employment and all of the following criteria are met:
    - i. The vehicle has a gross vehicle weight rating of ten thousand pounds or less.
    - ii. The Owner is a bona fide member of a volunteer fire department or is employed by a primary provider of emergency firefighting, law enforcement, ambulance, or emergency medical services.
    - iii. The vehicle bears an official emblem or other visible designation of the emergency service provider.
    - iv. Parking of the vehicle can be accomplished without obstructing emergency access to or interfering with the reasonable needs of other Owners or occupants to use streets, driveways, and guest parking places.
  - D. Prohibit the removal by an Owner of trees, shrubs, or other vegetation to create defensible space on the Owner's Property for fire mitigation purposes, so long as the removal complies with a written defensible space plan created for the Owner's Property by the Colorado State Forest Service, an individual or company certified by an entity of a local government to create such a plan, or the fire chief, fire marshal, or fire protection district within whose jurisdiction the Owner's Property



is located and is no more extensive than necessary to comply with the plan. The plan shall be registered with the District at least thirty (30) days before the commencement of work. The District may require changes to the plan if the District obtains the consent of the individual, official, or agency that originally created the plan. The work must comply with applicable Rules and Regulations standards of the District regarding slash removal, stump height, revegetation, and contractor regulations.

- E. Prohibit reasonable modifications to an Owner's Property as necessary to afford an individual with disabilities full use and enjoyment of the Owner's Property in accordance with the Federal "Fair Housing Act of 1968," 42 U.S.C. Sec 3604 (f)(3)(A).
- F. Prohibit the use of xeriscape, nonvegetative turf grass, or drought-tolerant vegetative or nonvegetative landscapes to provide ground covering to the Owner's Property for which a Property Owner is responsible in accordance with C.R.S. §38-33.3-106.5(l)(i) and (l)(i.5).
- G. Prohibit the use of a rain barrel, as defined in C.R.S. §37-96.5-102(l), to collect precipitation from the Property Owner's rooftop in accordance with C.R.S. §37-96.5-103. Prior approval of the District is required. The District may impose reasonable aesthetic requirements that govern the placement or external appearance of a rain barrel. This does not confer upon a Property Owner's right to place a rain barrel at, or to connect a rain barrel to, any property that is:
  - i. Leased, except with permission of the Property Owner.
  - ii. A common element or a limited common element of a common interest community, as those terms are defined in C.R.S. §38-33.3-103.
  - iii. Owned or maintained by the District.
  - iv. Attached to one or more Owners' Properties, except with permission of other Property Owners.
- H. Prohibit the operation of a family childcare home, as defined in C.R.S Section 26.5-5-303, that is licensed pursuant to Part 3 of Article 5 of Title 26.5.
  - i. The operation of a family childcare home is subject to any Rules concerning architectural, control, parking, landscaping, noise, or other matters not specific to the operation of a business per se. The District shall make reasonable accommodations for fencing requirements applicable to licensed family child care home.
  - ii. Notwithstanding the foregoing, family childcare home may be restricted in a community qualified housing for older persons under the federal "Housing for Older Persons Act of 1995," Pub.L. 204-76.
  - iii. The District may require the Property Owner or operator of a family childcare home to carry liability insurance, at reasonable levels determined by the Board, providing coverage for any aspect of the operation of the family child care home for personal injury, death, damage to personal property, and damage to real property that occurs in or on any property owned or maintained by the District, in the Owner's Property where the

family child care home is located, or in any other Owners' Property. The District shall be named as an additional insured on the liability insurance the family childcare home is required to carry, and such insurance must be primary to any insurance the District is required to carry.

- I. Require the use of cedar shakes or other flammable roofing materials on the Owner's Property.
- J. Effectively prohibit renewal energy generation devices as defined in C.R.S. 38-30-168.
- K. Effectively prohibit the installation or use of any energy efficient measure. "Energy Efficiency Measures" are devices or structures that reduce the amount of energy derived from fossil fuels that is consumed by a Property. "Energy Efficiency Measure" includes only the following types of devices or structures:
  - i. An awning, shutter, trellis, ramada, or other shade structure that is marketed for the purpose of reducing energy consumption.
  - ii. A garage or attic fan and any associated vents or louvers.
  - iii. An evaporative cooler.
  - iv. An energy-efficient outdoor lighting device, including without limitation a light fixture containing a coiled or straight fluorescent light bulb, and any solar recharging panel, motion detector, or other equipment connected to the lighting device.
  - v. A retractable clothesline.
  - vi. A heat pump system, as defined in C.R.S. 39-26-732(2)(c).

This section does not apply to covenant enforcement and design review services that implement dark sky requirements for the Owner's Property that is a designed dark sky place. This section also does not apply to bona fide safety requirements, consistent with an applicable building code or recognized safety standard, for protection of persons or property.

The District will not be prohibited from applying reasonable aesthetic provisions that govern the dimensions, placement, or external appearance of an energy efficiency measure. In creating reasonable aesthetic provisions, the District shall consider:

- i. The impact of the purchase price and operating costs of the energy efficiency measure.
- ii. The impact on the performance of the energy efficiency measure.
- iii. The criteria contained in any of the Governing Documents.

Nothing in this section gives the Owner the right to place an Energy Efficiency Measures on property that is 1) owned by another person, 2) leased, except with permission of the lessor, 3) collateral for a commercial loan, except with permission of the secured party, 4) a common element or limited common element, as those terms are defined in C.R.S. 38-33.3-103, or 5) owned or maintained by the District.



2. Conflicts. To the extent there is a conflict between this Resolution and the Rules and Regulations, this Resolution shall control and effectively amend the Rules and Regulations and superseded such portions of the Rules and Regulations to the extent necessary to comply with this Resolution. All other portions of the Rules and Regulations remain in effect; provided, such rules can be enforced consistent with the restrictions set forth in this Resolution. In the event portions of the Covenants or other Governing Documents conflict with this Resolution and the restrictions imposed on the District in HB 24-1267, the District shall not enforce those covenants, restrictions, policies or rules regardless of whether such provisions have been formally amended.
3. Enforcement. This Resolution and the rules contained herein shall be enforced, any disputes related to the same shall be addressed, pursuant to the District's Enforcement Policy.
4. 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.
5. Effective Date. This Resolution shall become effective immediately upon adoption by the District Board.

**NOW THEREFORE, BE IT RESOLVED** this Resolution is hereby approved and adopted by the Cumberland Green Metropolitan District Board of Directors this 10<sup>th</sup> day of December, 2024.

**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

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Special Counsel to the District