

RESOLUTION
OF THE BOARD OF DIRECTORS OF THE
LEWIS POINTE METROPOLITAN DISTRICT

Establishing Policies Regarding Record Inspection, Management and Retention (“Policy”)

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

WHEREAS, Title 24 - Article 80 of the Colorado Revised Statutes provides for the preservation of permanent records and the destruction of records that are no longer of value to public agencies; and

WHEREAS, the District Board of Directors (“Board”) wishes to set forth its policy regarding the inspection and retention of District records for purposes of complying with the Colorado Law and maintaining transparency with the public;

WHEREAS, the Board desires to adopt this Policy.

NOW, THEREFORE, the Board hereby RESOLVES:

1. **Record Retention – Generally.**

A. The District’s records are important assets that allow the District to maintain continuity and efficiency in its operations over time. It also allows the District (if necessary) to prosecute or defend a lawsuit. In many instances, record retention is required by laws, such as federal and state tax and employment laws. Failure to maintain records for the minimum periods of time required could subject the District to penalties and fines, cause the loss of rights, obstruct justice, or otherwise disadvantage the District or its constituents.

B. The District expects all employees, Directors and agents to comply fully with this record retention policy ("Policy") as set forth herein. However, in addition, there may be circumstances that require record retention beyond the retention schedule set forth in this Policy. Specifically, if employees, Board member and/or agents become aware that the District’s records are relevant to litigation, potential litigation (i.e., a dispute that could lead to litigation), an internal investigation, or an inquiry into or examination of the District’s operations by an external regulatory body, they must notify the District’s Directors and /or Managing Agent and suspend any record destruction immediately. Thereafter, any instructions the District’s Board provides regarding the retention of records will supersede any other established retention schedule.

C. Generally, the District and its employees, Directors and agents are to retain records made or received by the District or its employees, Directors and agents for the purpose of fulfilling its business responsibilities in accordance with the record retention schedule provided in **Attachment A** to this Policy.

D. Generally, only final versions of records and records that are circulated to the final intended audience are required to be retained. Notes, marked-up drafts, etc., are not considered to be within the scope of this Policy unless they otherwise can be considered final or circulated records (e.g., a handwritten letter). Therefore, generally, preliminary versions of an internally created record that are improved upon, completed, or otherwise altered by one or more individuals creating the record prior to the record being circulated publicly or otherwise used for the purpose(s) for which it was created need not be retained.

E. Records not required to be retained by this Policy may be kept if useful to one's work for the District. Retention of a record not required to be retained under this Policy does not subject the record to the required retention periods.

2. **Where to Retain Records.**

A. The District's Managing Agent is responsible for determining how records are to be stored and organized, and ensuring that the storage or filing system allows for compliance with this Policy. Storage or filing systems should be transparent so that all persons needing timely access to records may locate them.

B. **Electronic Records:** If records subject to retention are in electronic format, they should be stored on the District's record/document management system maintained by the District's agent.

C. **Hard Copy Records:** If records subject to retention are in hard copy format, they should be stored and organized in a manner known to the District's Managing Agent who is able to provide access to the records if necessary.

D. All records must be retained in an "easily accessible" place for the first three years after they are made or received. "Active" records (e.g., current contracts and accounting records, records relating to active or ongoing legal disputes, records related to active collection files) must be kept in an "easily accessible" place as long as they are active, even if that period exceeds three years. Records are "easily accessible" if they are accessible on the same day that they are needed. Any document maintained at the Managing Agent's office receiving or generating the document is considered easily accessible for these purposes. After three years, non-active records may be retained off-site, but in any event should be able to be retrieved in less than five days.

3. **Original vs. Copy.**

If the District's employees, Directors and/or Managing Agent receives an "original" of a hard copy record that s/he converts into or saves in electronic format, the original hard copy record still must be retained if something unique would be lost if copied or scanned, such as a watermark or embossed notary stamp. An original signature on a document is not considered a unique document characteristic if the signature can be accurately captured through the document scanning process. If an employee receives a hard copy record (containing no unique, un-copiable characteristics) that s/he converts into or saves in electronic format, the hard copy record need not be retained after s/he has verified its successful conversion.

4. **Multiple Copies.**

A. The copy of any document retained by the District, regardless of form shall be the official copy of the record.

B. Original records of the District are not property of the District's Managing Agent. However, the District's Managing Agent may create and retain copies of District records for any reasonable business purpose. Such copies are considered property of the District's Managing Agent.

5. **Departing Directors.**

A. Whenever practicable, prior to a Board member's resignation or end of term, s/he is required to complete and sign the Attestation By Former Board Member Regarding Compliance with the Board's Record Retention Policy (see **Attachment B**) and submit to the District's Managing Agent. The files of departing Directors become part of the District's files and are to be retained in a manner similar to the other files of the District and in accordance with this Policy but may not be subject to disclosure.

B. Departing Directors are not to retain any originals or copies of District records other than publicly available records.

6. **Departing Managing Agents.**

A. Whenever practicable, prior to the termination of a Managing Agent's contract, the Managing Agent is required to complete and sign the Attestation By Former Managing Agent Regarding Compliance with the

Board's Record Retention Policy (see **Attachment C**) and submit to the District's new Managing Agent and/or District's Board. The files of departing Managing Agents become part of the District's files and are to be retained in a manner similar to the other files of the District and in accordance with this Policy.

B. Departing Managing Agents are not to retain any originals or copies of District records other than publicly available records and copies of District records as allowed under paragraph 12 of this Policy.

7. Record Destruction.

An important part of a record retention policy is purging the hard copy files and electronic systems of records that are not required to be retained. This is important to maintain efficiency and clarity of records, free up valuable storage space, and decrease costs associated with storage and maintenance. Subject to the caveat regarding litigation, potential litigation, internal investigations, or inquiries into or examinations of the District's operations, Directors, employees and Managing Agents are encouraged to dispose of records for which they are responsible that are not required to be retained by this Policy as soon as practicable after the applicable retention period, if any, has expired.

8. Record Inspection.

A. An Owner or his/her authorized agent is entitled to inspect and copy any of the books and records of the District, subject to the exclusions, conditions and requirements set forth below:

- i. The inspection and/or copying of the records of the District shall be at the Owner's expense and may be collected by the District in advance.
- ii. The inspection and/or copying of the records of the District shall be conducted during the regular business hours of the District's Managing Agent at the Managing Agent's place of business, or as otherwise determined by the Board of Directors.
- iii. The Owner shall give the District's Managing Agent a written demand, which describes with reasonable particularity the records sought and a certification that the record shall not be used for any improper purpose, at least ten business days before the date on which the Owner wishes to inspect and/or copy such records.
- iv. The Owner shall complete and sign the Agreement Regarding Inspection of District Records (see **Attachment D**) prior to the inspection and copying of any District records. Failure to properly complete or sign the Agreement shall be valid grounds for denying a Owner the right to inspect and/or copy any record of the District.
- v. The Board shall advise the Owner of the time and place of such inspection in writing within ten business days of receipt of the Owner's request. The Board of Directors at its sole discretion through its Managing Agent may provide such records at the next regularly scheduled Board meeting if the next regularly scheduled Board meeting is scheduled within thirty days of the Owner's request or may, upon request, provide such records by electronic email to the requesting Owner.

B. Private Records: The District considers the following list of records as "Private Records" of the District that it will withhold from inspection or copying by Owners of the Property:

- i. Architectural drawings, plans and/or designs submitted by unit owners;
- ii. Contracts, leases, bids and other records related to transactions to purchase or provide goods or services that are currently under negotiation by the Board;
- iii. Communications with the District's legal counsel that are otherwise protected by the attorney-client privilege or the attorney work product doctrine;

- iv. Information, which if disclosed publicly, would violate state or federal laws;
- v. Minutes of executive sessions of Board meetings;
- vi. Information regarding individual units that is not otherwise publicly available. Publicly available information, for example, would include information in title documents and liens filed with the County Assessor's office. Private information would include, but is not limited to, communications and documents related to legal actions taken by the District against a homeowner.
- vii. Personnel, salary and medical records relating to specific individuals; and
- viii. Personal identification and account information of District constituents, including bank account information, telephone numbers, email addresses, driver's license numbers and social security numbers.

C. Owner List: The Owner list for the Property is also considered a "Private Record" of the Turnberry subdivision. However, unlike the Private Records listed in section 8.B of this Policy, the Owner list is available for inspection and copying by Owners of the Property. However, no person or entity may:

- i. use the Owner List (or any part thereof) to solicit money or property from unit owners unless such money or property will be used to solicit the votes of the unit owners in an election to be held by the District;
- ii. use the Owner List (or any part thereof) for any commercial purpose; or
- iii. sell the Owner List.

D. Inspection Observation. The District reserves the right to have a third person present to observe during any inspection of records by a Owner or the Owner's representative.

E. Originals: No Owner shall remove any original book or record of the District from the place of inspection nor shall any Owner alter, destroy or mark in any manner, any original book or record of the District.

F. Creation and Compilation of Records. Nothing contained in this Policy shall be construed to nor require the District to create records that do not exist or compile records in a particular format or order.

9. Implementation of the Policy.

A. If anybody has any questions regarding this Policy or the retention period for a certain record or category of records, they should contact the District's Board. In the course of this process, the record(s) in question must be retained.

B. Failure to follow this Policy may result in disciplinary action, or, in the case of the contractual relationship between the District and its Managing Agent, termination of the contract for cause. Further, if after investigating any complaint of a violation of this Policy, the District's Board determines that a Board member, employee, Owner or Managing Agent provided false information regarding a complaint in connection with the investigation, disciplinary action may be taken against the individual who gave the false information. The District advises all individuals—Directors, employees and Managing Agents—that, in certain circumstances, improper record destruction may result in civil or criminal punishments imposed by law. This Policy is designed to ensure that the District, its Directors, employees and Managing Agent are complying with such laws.

10. Deviations.

The District may deviate from the procedures set forth in this Policy if in its sole discretion such deviation is reasonable under the circumstances.

11. **Definitions.**

Unless otherwise defined in this Policy, initially capitalized or terms defined in the Declaration shall have the same meaning herein.

12. **Supplement to Law.**

The provisions of this Policy shall be in addition to and in supplement of the terms and provisions of the Declaration and the law of the State of Colorado governing the District and the Property.

13. **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.

ADOPTED this 3rd day of May 2021.

LEWIS POINTE METROPOLITAN DISTRICT

DocuSigned by:

Peter Adler

358F2510C6D841E...

Peter Adler, Board President

ATTEST:

DocuSigned by:

Anthony Garcia

4978BE358DD341B...

Board Secretary

Attachment A

RECORD RETENTION SCHEDULE

	Document Type	Retention Period
a)	Records of receipts and expenditures including canceled checks, deposit slips and records, vendor invoices and expense receipts	Seven (7) years
b)	Bank statements	Seven (7) years
c)	Records of claims for construction defects and amounts received pursuant to settlement of such claims	Permanent
d)	Minutes of Board Meetings (including any resolutions)	Permanent
e)	Minutes of Committee Meetings (including any resolutions)	Permanent
f)	Records (including emails) of actions taken by the Board without a meeting	Permanent
g)	Unit owner list	Annually
h)	Declaration document and all related amendments and revisions	Permanent
i)	District Service Plan and all related amendments and revisions	Permanent
j)	Board's governance policies and all related amendments and revisions	Permanent
k)	Architectural review guidelines and all related amendments and revisions	Permanent
l)	Annual financial statements	Permanent
m)	Monthly financial statements	Three (3) years
n)	Annual transparency notices file with the State	One (1) year
o)	Financial records sufficiently detailed to enable the District to monitor and track unpaid fines and assessments	Seven (7) years after change in Lot ownership
p)	Reserve studies	Permanent
q)	Service contracts (e.g. landscaping maintenance, management services, capital construction or repair projects)	Life of contract + three (3) years
r)	Homeowner architectural request forms and related documentation of Board and/or Committee approvals or denials	Permanent
s)	Written communications to all unit owners generally as unit owners	Three (3) years
t)	Violation letters and photos sent to unit owners (and related written correspondence with unit owners and Directors)	Three (3) years from the point each violation is closed
u)	Summary and detailed periodic covenant violation reports	Three (3) years
v)	Board meeting agendas	Three (3) years
w)	Insurance policies (including liability, D&O, workers' comp, umbrella)	Life of policy + four (4) years
x)	Homeowner title and related ownership transfer documents	Seven (7) years after change in Lot ownership
y)	Contract bids	Three (3) years
z)	Legal research, correspondence and memoranda related to legal proceedings	Case-by-case as advised by the District's legal counsel but no less than seven (7) years from court ruling date or date of liability event
aa)	Any records not readily attributable to any of the above record classifications listed above	Three (3) years

Attachment B

ATTESTATION BY FORMER BOARD MEMBER REGARDING COMPLIANCE WITH THE BOARD'S RECORD INSPECTION, MANAGEMENT & RETENTION POLICY

In accordance with the Board's Record Inspection, Management & Retention Policy, I attest to the following:

1. I have read and am familiar with the Board's current Record Inspection, Management & Retention Policy;
2. I agree to comply with the Board's Policy as it pertains to use of the Property Owner List.
3. Any and all original records of the District in my possession have been turned over to the District's Managing Agent or Board; and
4. Within two weeks subsequent to my last day serving on the Board, I will review my electronic and hard copy files and ensure any and all Private Records of the Property (as defined in the Policy) are purged from my files.

Signature

Name

Board Title/Position

Date

Attachment C

ATTESTATION BY FORMER MANAGING AGENT REGARDING COMPLIANCE WITH THE BOARD'S RECORD INSPECTION, MANAGEMENT & RETENTION POLICY

In accordance with the Board's Record Inspection, Management & Retention Policy, I/we (i.e. the District's former Managing Agent) attest to the following:

1. I have read and am familiar with the Board's current Record Inspection, Management & Retention Policy;
2. I agree to comply with the Board's Policy as it pertains to use of the Property Owner List.
3. Any and all records of the District in possession of me/us have been turned over to the District's current Managing Agent or Board; and
4. Within four weeks subsequent to the last date of service as the District's Managing Agent, I/we will review our electronic and hard copy files and ensure any and all Private Records of the Property (as defined in the Policy) are either (1) purged from our records or (2) retained for a period not to exceed _____ months and managed in accordance with the Board's Policy.

Signature

Name

Title/Position

Company

Date

Attachment D

**AGREEMENT REGARDING INSPECTION
AND COPYING OF RECORDS OF THE
LEWIS POINTE METROPOLITAN DISTRICT**

I am requesting to inspect and/or obtain copies of the following records for the Lewis Pointe Metropolitan District (be as specific as possible) _____

Date & Time requested: _____

I have read and understand the District’s Policies and Procedures Regarding Record Inspection, Management & Retention (Record Policy). I agree to comply with the Board’s Record Policy—especially as it pertains to the inspection of District records, handling of original records and restrictions related to the Property Owner List.

I agree to pay for all actual costs incurred by the District, including the cost of copies (as contracted between the District and the Managing Agent) and the Managing Agent’s time (i.e. the hourly rate as contracted between the District and the Managing Agent) required to monitor my record inspection and search, retrieve, copy the record(s) requested by me. I understand the District may require a deposit in an amount equal to the anticipated actual cost of the requested records.

I agree not to use District information for any purpose prohibited by Colorado law. In the event any document requested is used for an improper purpose, I will be responsible for any and all damages, penalties and costs incurred by the District, including attorney fees resulting from such improper use. I will additionally be subject to any and all enforcement procedures available to the District through its governing documents and Colorado law.

Understood and agreed to by:

Resident

Date: _____

Address: _____

Property Address

Telephone #: _____