

WATERS' EDGE METROPOLITAN DISTRICT NO. 1
RULES AND REGULATIONS
FOR
IRRIGATION SYSTEM

Approved: June 27, 2024

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ARTICLE I - PURPOSE AND SCOPE OF RULES AND REGULATIONS

1.1 General Purpose and Authority

The purpose of these Rules and Regulations is to provide for the orderly management, maintenance, operation, and control of the non-potable irrigation water system, facilities, and improvements (the “**Irrigation System**”) of Waters’ Edge Metropolitan District No. 1 (the “**District**”). The District is a governmental entity and political subdivision of the State of Colorado with all powers of a public or quasi-municipal corporation which are specifically granted or implied for carrying out the objectives and purposes of the District.

The District and Waters’ Edge Metropolitan District Nos. 2-5 entered that certain District Coordinating Services Agreement dated as of March 22, 2021 (the “**Coordinating Agreement**”). Pursuant to the Coordinating Agreement, the District acts as the “Coordinating District” and Waters’ Edge Metropolitan District Nos. 2-5 act as “Financing Districts.” The District, as the Coordinating District, will own, operate, and maintain all Public Infrastructure within the boundaries of Waters’ Edge Metropolitan District Nos. 2-5 that are not otherwise dedicated or conveyed to the City of Fort Collins, Larimer County, another public entity, or are not otherwise owned, operated, and maintained by the Waters’ Edge Metropolitan District Nos. 2-5, including the Irrigation System

These Rules and Regulations are promulgated and adopted pursuant to the provisions of Section 32-1-1001(1)(m), Colorado Revised Statutes, as the same may be amended from time to time. The Board of Directors of the District (the “**Board**”) has determined to adopt these Rules and Regulations in order to assist the District, the public, and the Manager, and Consultants in implementing the decisions and policies of the Board. Any Person desiring to use the District’s Irrigation System shall comply with these Rules and Regulations. The Manager and Consultants shall utilize these Rules and Regulations as a tool for assuring proper treatment of Persons within the Service Area and fair responses to issues which confront the District. The Manager or Consultants shall provide copies of these Rules and Regulations to any Person who requests them. No Person shall be entitled to any exemption from the applicability of these Rules and Regulations due to the failure of that Person to become familiar with policies and standards of the District contained herein, as such policies may be amended or supplemented from time to time.

The Non-Potable Water for the Irrigation System is supplied by ELCO. The annual allotment for the District’s Service Area is 15,589,000 gallons per year. The Irrigation System was designed to provide Non-Potable Water to the Service Area with an emphasis on water conservation.

1.2 Public Health, Safety and Welfare

It is hereby declared that the Rules and Regulations serve a public interest and are necessary for the protection of the health, safety, prosperity, security, and general welfare of the public and the property owners of the District, and they shall be administered in good faith by the District, its Manager and related consultants.

1.3 Scope of Rules and Regulations

These Rules and Regulations shall be treated and considered as a new and comprehensive regulations, governing the operations and functions of the Irrigation System and shall supersede all previous versions of Rules and Regulations as well as informal practices and policies of the District, which practices and policies may be in conflict with the provisions hereof.

1.4 Rules and Regulations of Other Governmental Entities

Customers, Owners, and the Developer shall abide by all applicable local, state and federal laws, policies, codes, rules and regulations, as the same may be amended from time to time.

1.5 Limitation of Liability of District

The District reserves all rights conferred to it by the Colorado General Assembly under the Colorado Governmental Immunity Act, §§ 24-10-101 *et seq.*, C.R.S., as the same may be amended from time to time (“**Colorado Governmental Immunity Act**”). The District reserves the right to temporarily discontinue Service to any Property if it is deemed necessary or appropriate by the District to maintain operational integrity or regulatory compliance.

Nothing in these Rules and Regulations may be deemed a waiver by the District of any rights under Colorado Law, including but not limited to, the Colorado Governmental Immunity Act. No act or inaction by the District shall be construed as a waiver in whole or in part of the protections provided by the Colorado Governmental Immunity Act unless expressly and formerly resolved by the Board.

1.6 Conflicts

In case of any conflict between any provision of these Rules and Regulations, the District shall be entitled to resolve such conflict in its own favor at the District’s sole discretion, it being the intention of the Board that these Rules and Regulations shall be construed or interpreted by the District in such manner so as to maximize the ability of the District to govern and manage the District and its services and facilities.

To the extent that any of the District’s Rules and Regulations are inconsistent with any valid and applicable regulations promulgated by any state, or federal agency, the regulations of the state or federal agency shall govern.

1.7 Amendment, Modification, Waiver or Suspension

These Rules and Regulations may be amended, modified, waived or suspended, from time to time, by the District, as it deems necessary. In accordance with and to the extent required by applicable law, notice of such amendments, modifications, waivers, or suspensions shall be provided by the District prior to exercising its amendment, modification, waiver, or suspension powers. The District has the power to revise its Rules and Regulations from time to time by formal action of the District and has authority to waive the application of its Rules and Regulations to its own activities, or to the activities of others. Any formal action of the Board to revise, amend or modify these Rules and Regulations shall be deemed incorporated herein notwithstanding whether such revision, amendment, or modification is codified herein. Supplemental policies of the District may be adopted from time to time in order to assist the District and its Consultants in managing

the affairs of the District. When possible, copies of such policies and amendments shall be attached hereto as appendices. The District shall have the sole authority to amend, waive, suspend, or modify these Rules and Regulations. Any Person claiming the benefit of such a waiver, suspension, or modification shall be required to obtain a written waiver signed by the Manager. No refusal, failure, or omission of the District or its agents to apply or enforce these Rules and Regulations shall be construed as an alteration, waiver, or deviation from any grant of power, duty, or responsibility, or any limitation or restriction upon the District by virtue of statutes now existing or subsequently amended, or under any contract or agreement existing between the District and any other entity. Any express waiver shall not be deemed an amendment of these Rules and Regulations. However, an express waiver or variance from these Rules and Regulations by the District shall supersede these Rules and Regulations regarding the subject matter of the express waiver. No waiver shall be deemed a continuing waiver unless expressly stated within such waiver.

1.8 Severability

The invalidity or unenforceability of any portion or previous version of these Rules and Regulations shall not affect the validity or enforceability of any other portion or provision. Any invalid or unenforceable portion or provision shall be deemed severed from these Rules and Regulations and the balance of these Rules and Regulations shall be construed and enforced as if these Rules and Regulations did not contain such invalid or unenforceable portion or provisions.

ARTICLE II – DEFINITIONS

Unless the context specifically states otherwise, the meaning of the following terms when used herein shall be as set forth below:

2.1 Actual Cost – Shall mean all direct costs applicable to the construction or repair of a given facility, main or service line, including construction, engineering, inspection, plan approval fees, etc.

2.2 Ball Valve – Shall mean the ¾” brass ball valve used as multi-purpose shut off valve installed on the lot line of a property.

2.3 Board or Board of Directors – Shall mean the Board of Directors of the District which acts as the governing body of the District.

2.4 Consultant – Shall mean any Person who provides advice within a field of specialized knowledge or training and performs professional, executive, or managerial services for the District.

2.5 Customer – Shall mean any Person who is connected to or physically using the Irrigation System.

2.6 Developer – Shall mean Waters’ Edge Developments Inc., a Colorado corporation.

2.7 District – Shall mean Waters’ Edge Metropolitan District No. 1, a quasi- municipal corporation and political subdivision of the State of Colorado.

2.8 District Engineer or Engineer – Shall mean the Person, or duly authorized representative thereof, who is contracted to do engineering work for the District.

2.9 District Facilities – Shall mean all improvements and appurtenances of the Irrigation System constructed by or for the District, which have been accepted by and are owned by District. The District Facilities include the Main Lines and Service Lines from the Point of Connection to the Ball Valve located at each Owner’s Property boundary.

2.10 ELCO – Shall mean the East Larimer County Water District.

2.11 Irrigation System – Shall mean the District’s Non-Potable Water distribution system, all sources, facilities, mains, valves, stub-ins/stub-outs, pumps, conduits, pipes, receptacles, fixtures, equipment, and all other appurtenances which are owned by the District and used to convey and store Non-Potable Water use within the Service Area of the District.

2.12 Landscaping – Shall mean the turf, shrubs, trees, and other permanent or semi-permanent plant material located on a Property.

2.13 Main Line – Shall mean a District-owned water pipeline within the Service Area, carrying Non-Potable Water only and used primarily for irrigation, installed in rights-of-way, parcels, easements or other property interests approved by the District.

2.14 Manager – Shall mean any Person, or duly authorized representative thereof, retained by the Board to administer and supervise the affairs of the District.

2.15 Non-Potable Water – Shall mean water not safe for human consumption or water that does not meet the requirements set forth in the State of Colorado Primary Drinking Water Regulations, as the same may be amended from time to time.

2.16 Notice of Installation – Shall mean the completed Design Review Request Form, available on the District’s website, to be submitted to the District Manager in accordance with Section 4.5.1.2.

2.17 Point of Connection – Shall mean the electronically controlled locations within the Irrigation System that provide water service to multiple Properties.

2.18 Owner – Shall mean the Person owning a fee interest in Property within the Service Area of the District that is connected to the Irrigation System.

2.19 Owner Facilities – Shall mean all improvements and appurtenances of the Irrigation System constructed by or for the Owner on Owner’s Property, including those portions of a Service Lines from the Ball Valve onto Owner’s Property.

2.20 Person – Shall mean any individual, firm, company, society, corporation, association, organization, partnership, group, government or subdivision thereof, or other entity.

2.21 Property – Shall mean any parcel of land established by a recorded final subdivision plat and which is located within the Service Area.

2.22 Rules and Regulations – Shall mean the Rules and Regulations adopted by the District including all amendments, policies, and resolutions.

2.23 Service – Shall mean the provision of Non-Potable Water service by the District to a Customer.

2.24 Service Area – Shall mean the legal boundaries of Waters’ Edge Metropolitan District Nos. 1-5, as may be amended from time to time pursuant to state law.

2.25 Service Line – Shall mean the service line extending from the Non-Potable Water Main to the Property it serves.

2.26 Service Plan – Shall mean the Consolidated Service Plan for Waters’ Edge Metropolitan District Nos. 1-5 approved by the City of Fort Collins on September 18, 2018, and any amendments thereto.

2.27 Watering Schedule – Shall mean the schedule of times that Non-Potable Water will be available for Owners’ use on their Property, as set forth in Section 4.5.1.

2.28 Watering Season – Shall mean the period of the year extending from when the Irrigation System is turned on by the District in the spring to the time when the Irrigation system is Winterized by the District. The Watering Season shall be approximately [May through October] each year.

ARTICLE III – OWNERSHIP, CONSTRUCTION, OPERATION, MAINTENANCE, AND INSPECTION OF FACILITIES

3.1 Policy

The District is responsible for the operation and maintenance of the Irrigation System in a sound and economical manner; it shall not be liable or responsible for inadequate treatment of Non-Potable Water or interruption of Service brought about by circumstances beyond its control.

3.2 District Facilities

3.2.1 Ownership of District Facilities

The District shall own the District Facilities, provided that the District Facilities not constructed by the District have been accepted by the District as further described in Section 3.2.3 of these Rules and Regulations. The District shall be permitted to convey, transfer, or otherwise dispose of any District Facilities for any reason as determined in its sole discretion.

3.2.2 Inspection, Approval and Acceptance of District Facilities

Inspection, approval, and acceptance of District Facilities constructed by the Developer shall be in accordance with the Infrastructure Acquisition and Reimbursement Agreement dated as of February 6, 2019, as modified by that certain Addendum to the Infrastructure Acquisition and Reimbursement Agreement dated as of March 22, 2021, and as may be further modified by

the District in its discretion, provided that no such future modification shall be permitted which contradicts any provision of that certain Declaration of Covenants, Conditions and Restrictions for Sonders Fort Collins, recorded in the Larimer County Property Records at reception #20220024320 (the “**Declaration**”), and that certain Amendment to Infrastructure Acquisition and Reimbursement Agreement dated as of September 1, 2021, and as may be further modified by the District in its discretion, provided that no such future modification shall be permitted which contradicts any provision of the Declaration.

3.2.3 Operation and Maintenance

The District shall be responsible for the maintenance, operation, repair, and replacement of the Irrigation System, provided that District Facilities not constructed by the District have been granted final acceptance by the District as further described in Section 3.2.2 of these Rules and Regulations.

3.3 Owner Facilities

The Owner shall own and be responsible for the installation, connection, maintenance, repair, and replacement of the Owner Facilities, at Owner’s sole cost.

ARTICLE IV – USE OF IRRIGATION SYSTEM

4.1 General

The Irrigation System was designed and constructed to provide Non-Potable Water for irrigation uses within the Service Area with an emphasis on water conservation.

To the extent practicable, all outside irrigation of Landscaping shall use water from the Irrigation System. Owners shall be required to connect sprinkler and irrigation systems to the Irrigation System. All automatic sprinkler and irrigation systems shall be equipped and designed for use with the Irrigation System, which may contain particulate matter or other foreign substances from time to time. Violation of this requirement, including by third party contractors, shall be deemed to be an unauthorized connection and tampering with the Irrigation System, subject to the enforcement provisions and penalties set forth in Article VII of these Rules and Regulations.

4.2 Who May Use

Service will be furnished to any Property connected to the Irrigation System, subject to the District’s Rules and Regulations and to the fees, rates, tolls, charges, and penalties imposed by the District.

4.3 Authority to Uncover, Use or Alter District Facilities

No Person shall uncover, make any connection with or opening into, shut off, turn on, use, alter or disturb any of the District Facilities without first obtaining a written permit from the District, unless authorized directly by the District.

4.4 Construction

The District has sole authority to plan, finance, design and construct, or acquire all District Facilities.

4.5 General Rules of Use

4.5.1 Watering Schedule

In order that the Irrigation System can continue to operate at optimum levels and within the allotment provided to the District by ELCO, the District has established a Watering Schedule for Properties within the Service Area. Figure 1 below shows the Service Area broken down into color coded areas. Each color coded area is assigned specific times for irrigation, as set forth in Table 1 below. The Watering Schedule applies during the Watering Season.

Table 1		
<u>Color</u>	<u>Hours for Watering</u>	<u>Days for Watering</u>
Blue	9:00pm-12:00am	Tuesday, Thursday, Saturday
Orange	12:00am-3:00am	Tuesday, Thursday, Saturday
Pink	3:00am-6:00am	Tuesday, Thursday, Saturday
Yellow	9:00pm-12:00am	Monday, Wednesday, Friday
Purple	12:00am-3:00am	Monday, Wednesday, Friday
Green	3:00am-6:00am	Monday, Wednesday, Friday

Owners may only use the Irrigation System for irrigation during the windows set forth in the Watering Schedule above. The Irrigation System will not be available for use by Owners outside of the windows set forth in the Watering Schedule except by special permission provided by the District.

In the event that the rain sensors for the Irrigation System determine that more than one quarter of an inch of rain has fallen, the Watering Schedule will be automatically suspended.

4.5.1.1 Scheduled Wet Checks

In addition to the Watering Schedule set forth herein, the Irrigation System will be made available to Owners to assess the Owner Facilities on a regular basis, as set forth herein. Scheduled wet checks will be every Saturday from 9:00 a.m. to 10:00 a.m.

4.5.1.2 Establishment of Landscaping

When an Owner intends to install new Landscaping or replace a significant portion of the Landscaping on the Owner’s Property, the Owner must provide the District with a Notice of Installation at least 2 business days’ prior to commencement of the work. The Owner must coordinate with the District’s Consultants if the Irrigation System needs to be shut off or turned on in conjunction with the installation of Landscaping. No Owner, nor any contractor engaged by an Owner, is permitted to shut off or turn on the Irrigation System without written permit from the District.

Following the installation of new Landscaping or replacement of a significant portion of the Landscaping on the Owner’s Property, the District will permit the Owner to utilize the Irrigation System outside of the Watering Schedule to establish such Landscaping for a period of time not to exceed one calendar year following installation of such Landscaping.

If an Owner plans to install sod, the Owner must provide the District with a Notice of Installation at least 2 business days' prior to the installation of the sod. Following such Notice of Installation, the Owner will be permitted to use the Irrigation System 8:00 a.m to 8:00 p.m. for two weeks following installation of the sod.

4.5.1.3 Testing and Repairs of Owner Facilities

An Owner may apply to the District for special permission to utilize the Irrigation System outside of the Watering Schedule for the purpose of testing or repairing Owner Facilities. To apply for such special permission, the Owner must submit a Request for Water Access to the District at least 2 business days prior to the day that the Owner intends to perform the testing or repairs. In the event of a leak or similar urgent situation, the Owner may contact the District Manager and request expedited access to the system.

4.5.2 Winterization and Spring Activation

The Irrigation System is constructed for centralized winterization and spring activation. The District will provide annual winterization for the District Facilities and provide times for Owners to winterize their Owner Facilities using air pressure provided by the District's Consultant. The District will provide Owners with at least 30 days' notice of annual winterizations timeframes. Spring activation is targeted for the first or second week of April each year, weather permitting.

4.6 Compliance with Other Applicable Regulations

Owners shall abide by all provisions of these Rules and Regulations and all applicable local, state and federal laws, policies, codes, rules and regulations, as the same may be amended from time to time.

4.7 Prohibited Acts

4.7.1 Unauthorized Persons

No unauthorized Person shall connect to or disconnect from, cover, uncover, use, alter, disturb, shut off, or open District Facilities without first obtaining written authorization from the District.

4.7.2 Unauthorized Connection to System

No unauthorized Person shall be allowed to connect to or disconnect from the Irrigation System or to enlarge or otherwise add to or change equipment without prior written approval of the District.

Upon the discovery of any unauthorized connections, the Owner may be subject to the provisions of Article VII of these Rules and Regulations.

4.7.3 Prohibited Use of Irrigation System and Prohibited Acts

Prohibited uses of the Irrigation System includes, but is not limited to unauthorized connection or disconnection of Service Lines, tampering with, shutting off, or in any way modifying any part of the District Facilities, modifying Service Lines in any way that violates these Rules or Regulations.

No Person shall maliciously, willfully, or negligently, break, damage, destroy, cover, uncover, deface, or tamper with any portion of the Irrigation System. No Person shall violate any provisions of these Rules and Regulations. The District may pursue to the limits of local, state, and/or federal laws any Person that causes damage to the System.

4.7.4 Obstruction of Easements or Rights-of-Way

No Person shall obstruct or impede the usage of District easements or rights-of-way in any manner that may prevent unrestricted access to and use of the easements or rights-of-way by duly authorized employees, agents, or representatives of the District unless such obstructions are specifically permitted by the District or the terms of the agreement granting the easement to the District.

4.8 Penalties

Any Person violating any of the provisions of these Rules and Regulations may be subject to the enforcement provisions and penalties set forth in Article V of these Rules and Regulations.

ARTICLE V – ENFORCEMENT, VIOLATIONS AND PENALTIES

5.1 Violations

Any intentional or negligent action taken by a Person in contravention of these Rules and Regulations shall be considered a violation and is subject to the provisions of this Article.

5.2 Enforcement Remedies

Enforcement of these Rules and Regulations shall be in accordance with the provisions of the District's Resolution Regarding Policies, Procedures, and Penalties for the Enforcement of the Governing Documents, as such resolution may be amended from time to time. Such resolution is available on the District's official website.