

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

Establishing Policy Regarding Use of Electronic Mail ("Email Policy")

---

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

WHEREAS, Section 24-72-204.5, C.R.S., requires that political subdivisions of the State of Colorado that operate or maintain an electronic mail ("e-mail") communications system, adopt a written policy regarding monitoring of e-mail communications and the circumstances under which it will be conducted; and

WHEREAS, Section 24-6-402(2)(d)(III), C.R.S., provides that if elected officials subject to the Colorado Open Meetings Law (Sections 24-6-401 and 24-6-402, C.R.S.) use e-mail to discuss pending legislation or other public business among themselves, the e-mail shall be subject to the requirements applicable to public meetings; and

WHEREAS, the District Board of Directors ("Board") wishes to set forth its policy for the monitoring of e-mail communications by, to and between District personnel, and further to set forth its policy for purposes of complying with the public meetings requirements of the Colorado Open Meetings Law applicable to e-mail regarding pending legislation or other public business among the Board, and further to set forth and clarify its policy regarding use of the District's e-mail systems;

WHEREAS, the Board desires to adopt this Policy.

NOW, THEREFORE, the Board hereby RESOLVES:

1. **District Email System Use and Monitoring:**

- a) **District Systems.** The District's e-mail system is a business tool owned and paid for by the District for use by the Board and its District Manager (collectively "System Users"). The e-mail system is designed to facilitate the District's business transactions and is limited to communications solely related to District business-related subjects. The e-mail system is not to be used for communications of a personal, private, or non-business matter or nature.
- b) **Private Systems.** System Users shall use the District's e-mail system for sending and receiving all e-mail related to District business and affairs. The use by System Users of private e-mail systems to conduct District business is strictly prohibited, with the exception of receiving occasional or inadvertent e-mail, which will be answered only through the District's e-mail system. The District shall provide no support to System Users who use private e-mail systems to conduct or discuss District business and shall not reimburse any costs associated with such use of private e-mail systems, including damage to hardware or software resulting from District-related e-mail sent or received by private e-mail systems. Use of private e-mail systems may

subject such systems and related computers and hardware to discovery orders, seizure, search and inspection in the event of litigation and public records requests.

- c) **Monitoring.** The District may periodically monitor, audit, and review e-mail messages sent and received over the District's email system at any time. The use of authorization passwords by System Users should not be construed as creating a private communication medium. All computer passwords must be divulged to the system administrator and the use of unauthorized or undisclosed passwords is strictly prohibited. System Users shall not attempt to access any system to which they are not authorized. The e-mail system should not be used to solicit outside business ventures or political, religious or other personal causes. All messages on the e-mail system can be traced to their author even after they are "deleted." The District maintains an archive of all e-mail messages for emergency backup purposes only. All e-mail messages are subject to discovery orders in litigation matters, except those e-mail messages archived for emergency backup purposes only. Additionally, correspondence in the form of e-mail may be a public record under the public records law and may be subject to public inspection under Section 24 72-203, C.R.S. Abusive or inappropriate e-mail sent by System Users over the District's system may be governed by the appropriate ethics or disciplinary policies of the District. By using the District's e-mail system, the System User expressly consents to the District's monitoring policy, agrees to comply with all limitations on the use of the e-mail system, and understands that the e-mail system is not a private communication medium.
- d) **E-mail Between Elected Officials.** Section 24-6-402, C.R.S., requires that certain e-mail between elected officials that discusses pending legislation or other public business shall be considered a public meeting. If required by Section 24-6-402, C.R.S., the District Manager shall post a public notice of an ongoing e-mail meeting among Board members subject to the Colorado Open Meetings Law. Such notice shall inform members of the public of the ability to attend such e-mail meeting by having their names added to the distribution list. The public notice of the ongoing e-mail meeting shall provide the general topics of discussion and shall be updated as new topics become the subject of e-mail correspondence subject to the Colorado Open Meetings Law among Board members. To facilitate attendance by the public, the District Manager shall keep a distribution list of all persons wishing to attend such e-mail meetings. If required by the Colorado Open Meetings Law, copies of e-mail correspondence among Board members subject to such State law shall be provided to the District Manager and forwarded to persons on the e-mail distribution list. The District Manager shall promptly mail a copy of such correspondence by U.S. Mail to persons on the distribution list who do not have e-mail capability. The District Manager shall keep a printed copy of all e-mail subject to the provisions of the Colorado Open Meetings Law among Board members, which shall be available for public review. Any correspondence between Board members in the form of e-mail may be a public record under the Public Records law and may be subject to public inspection under Section 24-72-203, C.R.S. No policy, position, resolution, rule or regulation shall be approved, or formal action shall be taken via e-mail. Directions regarding implementation of policies, positions, resolutions, rules or regulations and direction to staff regarding administrative matters shall not constitute approval of a policy, position, resolution, rule or regulation or formal action.

2. **Additional Actions:**

The Board directs its officers, staff and consultants to take such additional actions and execute such additional documents as are necessary to give full effect to the intention of this Policy.

3. **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.

4. **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 3<sup>rd</sup> day of May 2021.

LEWIS POINTE METROPOLITAN DISTRICT

DocuSigned by:  
*Peter Adler*  
358E2510C6D841E  
\_\_\_\_\_  
Peter Adler, Board President

ATTEST:

DocuSigned by:  
*Anthony Garcia*  
4978DF358DD341B...  
\_\_\_\_\_  
Board Secretary