

VILLAGE LOT OWNERS ASSOCIATION, INC.
RULES AND REGULATIONS

RULE #1

– Third Amended and Restated –

*[Replacing the Second Amended and Restated Rule #1 recorded September 7, 2010,
at Reception #2010-006931 of the records of the Grand County Clerk and Recorder in its entirety.]*

1. INTRODUCTION & PURPOSE

The protective Covenants and Restrictions for both filings of Val Moritz Village contemplate regulation of well and sewage disposal systems (p.k.a. septic systems n.k.a. Onsite Wastewater Treatment Systems) by the Association. Given the size of the lots it is both essential and critical that the Association exercise that authority. Unplanned and unregulated installation of wells and Onsite Wastewater Treatment Systems (OWTS) could and likely would result in some lots being left with no legally permissible location for a well and OWTS. This could result from the legal requirements for spacing (setbacks) between wells and OWTS.

Preliminary engineering has concluded that most of the soils in Val Moritz Village are not receptive to typical OWTS effluent and thus "cleaning up" the effluent through higher level treatment is required. This practice will also help reduce the risk of groundwater contamination. This Third Amended and Restated Rule #1 deals with the location of wells and OWTS, the design thereof and a requirement for periodic inspections, the maximum size of buildings, and limiting the number of bedrooms per lot.

Sections 12 and 21 of the Covenants address this issue: Section 12b. provides that each sewage disposal system be approved in advance of construction by the Association and Section 21 requires that the plans for any "structure whatsoever" be pre-approved in writing by the Association. Bylaw 4,21 authorized the Board of Directors of the Association "to establish, make and enforce compliance with such reasonable rules and regulations as may be necessary to carry out the functions of the Association.

2. EFFECT ON VAL MORITZ VILLAGE DESIGN GUIDELINES AND ADDITIONAL REGULATIONS

The Second Amended and Restated Val Moritz Village Design Guidelines and Additional Regulations were recorded the 13th day of July 2021 at Reception Number 2021-007853 of the records of the Grand County Clerk and Recorder. The section entitled "Other Governing Documents" on page 3 thereof provides:

These Guidelines are primarily intended to guide the development of the buildings and site in an aesthetic manner. They shall not be construed to be the only standards that must be followed. **In the event of any conflict among governing documents the more stringent shall control.**

THIS RULE #1 CONSTITUTES A MORE STRINGENT DOCUMENT WITH RESPECT TO THE ITEMS DEALT WITH HEREIN. ALL OWNERS OF REAL PROPERTY WITHIN VAL MORITZ VILLAGE ARE PUT ON NOTICE THAT THE CONTENTS HEREOF CONTROLS LESS STRINGENT PROVISIONS IN THE VAL MORITZ VILLAGE DESIGN GUIDELINES AND ADDITIONAL REGULATIONS!

3. ENGINEERING BACKGROUND

An engineering analysis and feasibility report obtained by the Association indicates that the number of bedrooms and maximum size of homes should be controlled in order to minimize the footprints of both the dwellings and OWTS Soil Treatment Areas so that adequate separation from wells and OWTS can be maintained. Both the size of the overall structure and the number of bedrooms within are factors in establishing wastewater loading. Traditional OWTS will not work adequately given the soils and constraints of the Village and systems based on higher level treatment technology must be used.

The Colorado Department of Public Health & Environment classifies higher level treatment as TL-2 (Treatment Level) or higher. The feasibility reports obtained by the Association contain preliminary

engineering such as soil profiles and percolation rates and owners may save themselves both time and money by utilizing those reports which are available through the Association.

4. REQUIREMENTS, PROVISIONS AND LIMITATIONS OF THIS RULE; ANNUAL INSPECTIONS

4.1 The maximum area which may be contained in all floors of all buildings on any lot, including any garage and outbuildings, is 4,200 square feet, no more than 3,500 of which may be included in the dwelling (as defined by the zoning regulations of Grand County).

4.2 All buildings on any lot may contain not more than four bedrooms as determined by the Grand County building department (the county classifies lofts as bedrooms) or other agency with jurisdiction over the issuance of building permits. Any owner found to be adding additional bedrooms beyond four, or beyond the design capacity of the OWTS, will be subject to a lawsuit and will be reported to the Grand County Board of Health.

If the area of the lot in question has increased in size from the original plat via the Amended Plat Process by a half-acre or more, the Association may grant a variance to the maximum allowable area of the primary dwelling, accessory building, and/or garages, and may permit additional bedrooms. If the lot has increased by at least one-half acre the maximum area will be increased by 30% and one additional bedroom may be permitted. If at least an additional one-acre of land is added the maximum area will be increased by 50%, and two additional bedrooms will be allowed.

4.3 Well and OWTS may only be constructed within the general areas (footprints) established in the engineer's Feasibility Report for same. No building plans whatsoever will be approved for any lot which do not locate the well and OWTS within the proper footprint. Deviations from these areas will only be permitted if approved by an engineering firm appointed by the Association that concludes the new locations will not adversely impact a neighboring owner's ability to meet minimal setbacks.

Neither the State nor the County have a minimum setback requirement for the location of a well from any property line, however the Association will not permit wells within the 20 foot rear setback, which is also an easement. Grand County may allow the subterranean portion of the OWTS (i.e. the Soil Treatment Area) to be located within either the 30 foot front setback or the 20 foot rear setback, however it will not allow any improvements within 10 feet of any property line. The Association's goal is to achieve more than the minimum well to OWTS setbacks wherever possible and thus will allow owners to install subterranean Soil Treatment Areas within the front 40 foot setback and the rear 20 foot setback/easement so long as they are not within ten feet of a property line or otherwise in violation of County regulations.

Warning regarding the 20 foot easements along the rear property lines. This area could potentially be used for the installation of utilities such as electricity, central water and sewer. If an owner chooses to utilize that area for a Soil Treatment Area the owner does so at his or her own risk knowing someday the Soil Treatment Area could be removed or destroyed with major complications and potential expense for the owner as it may not be possible to install the field in another location. OWNERS ARE ADVISED THAT THE RIGHTS OF THE OWNER OF AN EASEMENT ARE SUPERIOR TO THE RIGHTS OF THE OWNER OF THE UNDERLYING LAND. IF A UTILITY PROVIDER SUCH AS MOUNTAIN PARKS ELECTRIC OR A WATER OR SANITATION DISTRICT WISHED TO UTILIZE THE EASEMENT IT WOULD HAVE THE RIGHT TO DESTROY OR REMOVE ANYTHING THAT WAS WITHIN ITS BOUNDARIES INCLUDING ANYTHING THAT HAD BEEN CONSTRUCTED. IT WOULD ALSO HAVE THE RIGHT TO REQUIRE THE OWNER TO REMOVE AN ITEM AT THE OWNER'S COST.

Note regarding the preliminary Soil Treatment Area locations: The preliminary engineering was performed not only to help provide adequate well to OWTS setbacks on a multiple lot basis, the locations may have also been established to take advantage of areas where the upper soil horizon may have been deeper and thus more receptive to treated effluent. Any relocation may also need to include a new soils study.

Any costs associated with a request to relocate a well and/or OWTS from the established general footprint areas will be the responsibility of the owner regardless if the relocation is approved or not. If an owner wants the association to consider a relocation request the owner must inform the board of this intention and the board will then determine the likely costs associated with the request, including engineering and any other such costs, and the owner must then pay that amount to the association. On completion of the evaluation process by the association it will refund any unused funds to the owner.

4.4 All OWTS must employ advanced technology and that technology and manufacture must be approved by the State of Colorado. The advanced technology must achieve HLT as defined and approved by the State of Colorado also referred to as TL-2 (treatment level 2) or higher. Manufactures of these systems recommend annual inspections. Grand County and the Association require these annual inspections. The County will require a copy of the service agreement prior to issuing the OWTS permit and the Association requires a copy of the same. Annual inspections are to be performed by an authorized service provider and it is the owner's responsibility to have these inspections performed and to provide the County and the Association a copy of the report resulting from each annual inspection.

4.5 At such time the owner submits for house design approval they are to provide a copy of the OWTS engineering prepared by a registered engineer. The engineering shall include a site plan with the proposed well location and all OWTS components located and distances from one another. The engineering firm providing the design is to certify that the proposed OWTS is approved by, and meets the State of Colorado's requirement for TL-2 or higher. The components of the OWTS, including the septic tank, treatment tank or pod and the Soil Treatment Area ("STA"), are to be staked prior to the Association's required on-site meeting is scheduled.

Upon completion of construction the Association is to be provided with: (1) a letter from the authorized dealer, installer, inspector or engineer confirming the system was built as designed and in the approved locations and (2) a copy of the "Start Up Letter" from an authorized dealer, installer, inspector, or engineer indicating the system is operating correctly. Accompanying these letters shall be an as-built site plan with the four corners of the STA located via triangulation measurements from a fixed point, preferably the dwelling, or, photos of the staked four corners of the STA with a fixed landmark in the photo. The as-built site plan is also to include the well location. If the well and/or the OWTS are not installed in the approved locations the Association may hire an engineer to review the locations and determine whether or not those locations negatively impact any adjacent existing OWTS or well setbacks or if they will adversely impact future setbacks for adjacent OWTS or wells as per the engineering analysis and feasibility reports. The owners will be assessed all costs associated with this review. If the review determines that the well and/or the OWTS need to be relocated it will be the responsibility of the offending owner to do so at the owner's expense. If the owner does not relocate such items on a voluntary basis the Association may, in its discretion, enforce any applicable rules or regulations, enforce its governance policies, and/or seek an injunction or other appropriate judicial relief and the owner will be responsible for all of the costs and expenses associated therewith.

4.6 As required by Grand County's "OWTS Permit," system manufacturer's specifications and this Rule #1, an annual inspection, performed by authorized personnel, is required for all OWTS and every lot owners with such a system in place must provide a copy of each inspection report upon receipt and, in no event, later than September 30th each year. If the report is not received by the Association by September 30th, the owner will be assessed a \$500.00 late fee and reported to the Grand County Community Development Department for non-compliance. If the Association does not receive a copy of the inspection by October 31st of that same year, the Association will report the owner to the Grand County Board of Health for non-compliance and may file suit against the owner for an injunction and/or any other or additional relief and, in any such suit, the substantially prevailing party will be entitled to recover all costs including attorneys fees.

The Association, in its sole discretion, may adjust or rescind the late fee but only upon proof of extenuating circumstances. It is recommended that owners enter into extended maintenance contracts with reliable inspection companies.

4.7 Items to be inspected each year:

4.7.1 Septic Tank Standard Sludge Test. If the inspection concludes that the septic tank needs to be pumped, the inspector shall provide a not to exceed date for the tank to be pumped and the owner shall have such accomplished no later than that date. If the owner fails to accomplish the pumping by the not to exceed date the Association will report the owner to Grand County Board of Health and assess the owner a daily fine.

4.7.2 Higher level treatment System. Each system has a specific manufacturers checklist that the inspector for the annual inspection needs to adhere to. If at any time an inspection determines there may be an issue with effluent quality in the pre-discharge tank (terminology may change from system to system) the owner will be required to have the effluent tested to determine if the system is treating to the required standard and if not the owner shall be responsible for making whatever repairs are necessary to achieve that standard. If the owner fails to do so within 60 days of the date of the inspection the Association will inform the Grand County Board of Health. The owner may request an extension of the 60 day requirement based on extenuating circumstances.

A note regarding the HOOT systems. The HOOT system is no longer sold or distributed in Colorado. The existing systems seem to require a great deal of maintenance and repairs. Should you own a house that utilizes the HOOT system there is a possibility that a RetroFAST system from BioMicrobics could potentially be retrofitted to the HOOT system.

4.7.3 Warning Lights and Alarms. Remote Monitoring. Grand County does not require remote monitoring and over the years many owners did not run a phone line to either their home or to the control panels for the higher level treatment systems and thus the option to remotely monitor the systems was not available. More recently wireless monitoring has been developed and can be added to the control panel. It is recommended, especially for part-time residents that are not always able to see a flashing warning light or hear an alarm, to consider having your provider add this feature to your system.

4.7.4 Soil Treatment Areas (including signs of saturation, testing the distribution valves, and flushing the clean outs on older systems). If at any time an inspection reveals an OWTS may be failing, the owner, under the direction or supervision of an engineer, may have the soil in and around the system evaluated to determine if it is treating properly. If the engineer determines that the soils are not contaminated or at risk of contamination the system may stay in use so long as the underlying issue is monitored as per the engineer's recommendations. Otherwise the OWTS is to be repaired or rebuilt as per the inspectors or engineer's time line. Grand County requires engineering and a permit to rebuild an OWTS. If an owner fails to address a failing OWTS the Association will inform the Grand County Board of Health.

Note on Soil Treatment Areas. Although Soil Treatment Areas have advanced significantly since the first systems were installed most of the early systems included the half-dome type pressure dosing. That design has exhibited a tendency to have the cavities filled in by moles and gophers. This does not necessarily mean the field is not operating properly; it will often depend on how much use the system is getting, its age, and the quality of installation. Soil Treatment Areas with high usage that are located in grassy areas may see the vegetation overgrow and owners should keep that vegetation cut low.

5. PROTECTION FROM LIABILITY

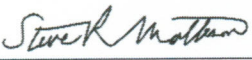
No member of the Board of Directors or of a committee appointed thereby, nor any officer of the Association will be liable for actions taken or omissions made in the performance of such person's duties

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except for wanton and willful acts or omissions.

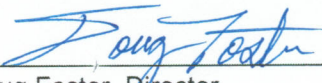
The foregoing Third Amended and Restated Rule #1 was unanimously adopted by the Board of Directors by Minutes of Action.

Approved the 30 day of March , 2022:



Steve Matteson, Director

Approved the 25 day of MARCH , 2022:




Doug Foster, Director

Approved the 14 day of APRIL , 2022:



Cliff Foster, Director

Approved the 14 day of APRIL , 2022:



Bruce Thomasson, Director

Approved the 14 day of April , 2022:



Phillip Martin, Director

*Foster ER 100
To Do
C:\Users\Mel\Documents\Dropbox\#1 Clients & Projects\Village Lot Owners Assn\Rule #1\Rule #1, Third Restatement 62321G.wpd*