

**2024 ACC PROPOSED DESIGN GUIDELINES:
RATIONALE FOR CHANGES**

1.1 THE LAND AND THE PEOPLE 2

2.2 SETBACKS..... 2

2.4 GENERAL SITE PLANNING RECOMMENDATIONS..... 2

2.5 GENERAL SITE REQUIREMENTS 2

2.9 WASHES AND/OR NATURAL DRAINAGE 3

2.11 SWIMMING POOLS/SWIM SPAS/HOT TUBS (POOLS) 3

2.14.2 EXTERIOR LIGHTING..... 3

2.15 SIGNS 3

2.17 – 2.24 SITE DEVELOPMENT DESIGN GUIDELINES TO BE DELETED..... 4

2.17 OVER-THE-AIR RECEPTION DEVICES FOR VIDEO AND HIGH SPEED INTERNET PURPOSES AS SPECIFIED BY FCC OVER-THE-AIR-RECEPTION DEVICES (“OTARD”) RULE (47 CFR 1.4000)) 4

2.18 COOLING DEVICES AND GENERATORS..... 5

2.19 ELECTRIC METER LOCATED AWAY FROM THE HOUSE AND PNM ELECTRICAL CONDUIT NEAR ROAD... 5

2.20 MAILBOXES AND SUPPORTING STRUCTURES; PACKAGE DELIVERY BOXES 5

3.8 ROOFS 5

3.13 SOLAR APPLICATIONS 6

3.16.1 GREENHOUSES AND CHICKEN COOPS 6

3.18 WATER STORAGE TANKS 6

4.5 CONSTRUCTION DEBRIS AND TRASH REMOVAL DURING CONSTRUCTION..... 7

4.13 CONSTRUCTION ACCESS 7

5.12 REQUEST FOR VARIANCE 7

1.1 THE LAND AND THE PEOPLE

Discussion – Why the ACC believes we should make this change

New homes in SPCE are typically built without water meters, so it is difficult for the owner to know how much well water the residence and landscaping is using, and perhaps more importantly there may be no clear indication of any water leakage under the residence. For a small additional plumbing cost at build time, a meter can be added that will allow the owners to know residence and landscape water usage, including whether or not a leak is occurring.

2.2 SETBACKS

Discussion – Why the ACC believes we should make this change

This situation was presented to the ACC when a builder wanted to locate a max-height, main-residence exactly on the 100-foot setback from the road when the lot terrain did not require such placement. In the opinion of the ACC, a large/tall house situated this close to the road is not compatible with our ‘estates’ charter. The Design Guidelines already provide a solution to this dilemma, providing a 150 ft setback for barns or garages that might appear out-of-place. Our proposal is to simply enforce *the same 150-foot setback* from the road in cases like this where the site conditions allow other alternatives.

2.4 GENERAL SITE PLANNING RECOMMENDATIONS

Discussion – Why the ACC believes we should make this change

Some SPCE Lot Owners have conducted fire mitigation activities on their Lots. SPCE residents need clarity on what changes they can make to their property to create defensible space.

The Governing Documents Committee (GDC) and the ACC recommend that we modify sections of the SPCE Design Guidelines to permit the removal, modification or disturbance of native vegetation for the purposes of creating defensible space, and to strongly suggest the creation of defensible space surrounding proposed new structures. The terms “landscaping” and “landscaped improvements” will be interpreted to include modifications to native vegetation for the purposes of creating defensible space.

2.5 GENERAL SITE REQUIREMENTS

Discussion 1: Why the ACC believes we should make this change

Most recently the ACC has discouraged and largely prohibited septic systems from being located within the setback. No explicit limitation in the DG’s justify this stance. Our policy was challenged by a local builder and so the following reasoning was provided:

“The only items (or permanent structures) permitted in the setback per ACC Guidelines are 1.) a water well and 2.) a driveway. Building codes require that a well be positioned at least 100 feet from any septic tank or drain field. If the ACC were to allow either of the latter items to be placed within a setback, then this would constitute an infringement on a neighboring lot which could not place a well

at all locations within their lot. This also protects a neighbor in the future that might have to relocate a water well if an existing well goes dry.”

2.9 WASHES AND/OR NATURAL DRAINAGE

Discussion – Why the ACC believes we should make this change

Design Guideline “2.9 WASHES AND/OR NATURAL DRAINAGE” discusses building near arroyos, but does not explicitly mention septic drain systems as the ACC believes it should. Also, the ACC believes the text in the second paragraph should be clarified.

2.11 SWIMMING POOLS/SWIM SPAS/HOT TUBS (POOLS)

Discussion – Why the ACC believes we should make this change

Design Guideline 2.11 requires that swimming pools be initially filled with water from outside SPCE, but does not specify what water volume constitutes a swimming pool, as distinguished from a much smaller hot tub or spa.

We suggest that we set the requirement at 1500 gallons ... any pool with capacity > 1500 gals must be initially filled with water from outside SPCE. In that case any reasonable hot tub will be exempt, but any typical swimming pool will be required to initially fill with outside water. We expect that this was the original intent of a section on “swimming pools”.

2.14.2 EXTERIOR LIGHTING

Discussion – Why the ACC believes we should make this change

Lights placed high up on an exterior wall are particularly visible from nearby homes even when dark-sky compliant lighting is used. Such lights also provide little advantage over lights placed lower on the residence wall.

2.15 SIGNS

Discussion – Why the ACC believes we should make this change

There has been discussion recently about unenforced “sign infractions” in SPCE, for example a quite visible handwritten sign on cardboard. Others have pointed out that we have not enforced sign infractions against the very popular small “Security provided here by ...” signs, nor against the “Private Drive” signs that are primarily at the end of cul-de-sacs and PAEs where the transition from road to private driveway may not be readily apparent.

SPCE Restrictions Section 3.02c covers sign restrictions. This section is outside the ACC purview, which covers Section 8.03b only.

However, it is interesting to note that the current ACC Design Guidelines Section 2.15 on signs differs somewhat from Restrictions Section 3.02c. For example, 3.02c2 allows construction-related signs up to 12 sq ft, whereas DG 2.15 limits them to 6 sq ft.

It should also be noted that Restrictions 3.02c5 allows “Such residential or commercial identification signs as Grantor has the right to maintain, or as are specifically approved by the Board in accordance with the rules adopted by the board.” (Our emphasis.)

Therefore Restriction 3.02c5 seems to allow the Board to modify the sign restrictions without a community vote.

With the above in mind, since the Board approves the ACC DG changes, we are suggesting sign restriction changes in the DGs, and Board approval of those DG changes should satisfy 3.02c5.

2.17 – 2.24 SITE DEVELOPMENT DESIGN GUIDELINES TO BE DELETED

Discussion – Why the ACC believes we should make this change

The ACC recommends that the following Sections of the Design Guidelines be removed in their entirety because these Sections are outside the purview of the ACC as referenced in Article 8 of our Declaration. Section 3.02 of our Declaration addresses the Prohibited Uses of our Subdivision and would supersede the Design Guideline Sections listed below.

Design Guideline:

Section 2.17 – Parking

Section 2.18 – Firearms

Section 2.19 – Manufactured Homes, Trailers and/or Motor Homes

Section 2.20 – Oil, Gas and other Minerals

Section 2.21 – Courtesy to Neighbors

Section 2.22 – Commercial Activity

Section 2.23 – Insurance Considerations

Section 2.24 – Solid Waste Disposal

2.17 OVER-THE-AIR RECEPTION DEVICES FOR VIDEO AND HIGH SPEED INTERNET PURPOSES AS SPECIFIED BY FCC OVER-THE-AIR-RECEPTION DEVICES (“OTARD”) RULE (47 CFR 1.4000)

Discussion – Why the ACC and GDC believe we should make this change:

Throughout the years our Lot Owners have had a growing interest in having access to improved internet capabilities throughout SPCE. Obtaining affordable service with acceptable quality has been an ongoing challenge.

At present our Declaration of Restrictions (referenced at the end of this document) have prohibited or restricted individual Lot Owners from installing certain receivers(antennas) to facilitate high speed internet access.

In March 2021, the FCC enacted an updated ruling (known as the OTARD rule) impacting Lot Owner’s abilities to install, maintain and use over-the-air reception devices. Since the federal law supersedes any of our governing documents’ provisions, the GDC is proposing the following amendment to the Site Development, Section 2.25 in our Design Guidelines:

2.18 COOLING DEVICES AND GENERATORS

Discussion – Why the ACC believes we should make this change

Rare is the case in SPCE that a house was built with no concealed ducting for conditioned air. An outdated option that exists for retrofitting such a house is using exposed rooftop ducts to connect an A/C unit on the roof with the various rooms of the house. Both visually and mechanically this option is architecturally deviant and should not be approved. Rather, a house can be more efficiently conditioned using ductless, HVAC heat-pipes (so-called mini-splits). This should be the only approved option in the future.

2.19 ELECTRIC METER LOCATED AWAY FROM THE HOUSE AND PNM ELECTRICAL CONDUIT NEAR ROAD

Discussion – Why the ACC believes we should make these changes

Electric Meter Located Away from House

Last year the ACC introduced the following into the Design Guidelines:

“2.27 ELECTRIC METER LOCATED AWAY FROM HOUSE

PNM electric meters located away from the house shall be screened/hidden from the neighborhood view by a wall that matches the residence in materials, color and style, or by natural screens such as large rocks or EXISTING native trees or shrubs (pinon tree, juniper tree, etc).”

More recently we learned that the PNM restrictions on the area around the meter would require such a screening wall to be large and visually intrusive, so we are modifying this guideline.

PNM Electrical Conduit Near Road

Coils of unused conduit for future expansion, typically orange, stubbed up near PNM pedestals/transformers seem to be a recent practice for newly constructed homes. This creates an “unfinished” eye sore and, in most cases, have not been addressed by PNM, the contractor or the homeowner.

2.20 MAILBOXES AND SUPPORTING STRUCTURES; PACKAGE DELIVERY BOXES

Discussion – Why the ACC believes we should make this change

Homeowners have recently begun placing package delivery boxes near their driveway entrances for package drop-offs. These drop boxes are often commercial-grade and made of plastic, metal and of various colors.

3.8 ROOFS

Discussion – Why the ACC believes we should make this change

The architectural beauty of a well-crafted pitched-roof exhibiting continuous lines and uninterrupted surfaces can be readily diminished with an overabundance of roof penetrations that are visible from the street. Suddenly the curb appeal of a house can be dominated by ‘all these pipes’ sticking through the roof (sometimes at visually-annoying, out-of-plumb angles). These penetrations are associated with the mechanical equipment of the house and may be identified as plumbing drain vents, house ventilators, clothes dryer exhaust, furnace and water-heater flues, *etc.* Traditional building practices have always resulted in most vents exiting the roof directly above the plumbing fixture or appliance location in the house. For appliances that exhaust combustion products this makes sense from a safety perspective. However, for plumbing drain vents it is both possible and safe to consolidate many vents (especially in a region with many drain fixture units) using a trunk line in the attic space. This can greatly reduce the number of thru-the-roof penetrations; also, the integrity of the roof is maintained by limiting the number of roof piercings.

3.13 SOLAR APPLICATIONS

Discussion – Why the ACC believes we should make this change

To date, the ACC has always required that PNM’s main meter box (attached to the house) and PVC riser be painted to match the stucco color of the mounting wall. More recently, for rooftop solar installations, the ACC has only required that the IMC conduit that connects the rooftop panels to the electrical utility boxes be painted to match the color of the stucco. These utility boxes [main shut-off, safety disconnect, inverter(s), sub-panel(s), meter] often display warning labels and/or safety instructions. Because of these labels hearsay arguments have been used to claim that these utility boxes cannot be painted, thus giving the overall solar install an unfinished look and the appearance of non-uniformity. Representatives from each of the following companies (Solar Works, Positive Energy, Sandia Mountain Solar) have stated that if the warning/safety labels are simply ‘masked-off’ there is nothing preventing these boxes from being painted. It is therefore recommended that for uniformity of appearance and consistency of policy that all electric/utility boxes associated with a solar installation and mounted on an exterior wall of the house/garage along with the associated IMC conduit be painted to match the stucco color of the background wall.

3.16.1 GREENHOUSES AND CHICKEN COOPS

Discussion – Why the ACC believes we should make this change

Some SPCE owners have requested approval for greenhouses and/or chicken coops. (Note that a 1995 amendment to the original SPCE Restrictions allows poultry to be kept on an SPCE lot.)

Currently our Design Guidelines do not include any requirements specifically tailored to these smaller specialized structures. The only reference to outbuildings is in Sec 3.15 of the Design Guidelines, which states that all outbuildings must match the existing style, materials, and color of the house. That would mean that these small structures would most likely need to be constructed out of wood-frame and stucco as are most of our houses. This does not seem like a reasonable requirement due to the nature of these small structures.

3.18 WATER STORAGE TANKS

Discussion – Why the ACC believes we should make this change

Section 3.17 on large water storage tanks seems to be focused on the water tanks placed in SPCE for use by LMVFD for emergency fire-fighting. A homeowner who wants to install a water tank for rainwater capture or emergency use, for example, would find it very confusing to use this section to determine the requirements. We propose to keep the requirements for LMVFD-related tanks much as they are written, and add requirements for owner installed and maintained tanks.

4.5 CONSTRUCTION DEBRIS AND TRASH REMOVAL DURING CONSTRUCTION

Discussion – Why the ACC believes we should make this change:

The current DGs do not contain a useful remedy when the builder neglects to properly keep the site clean of trash during the building process. Construction trash and personal trash discarded by workers is often found blown away from the immediate worksite or washed into nearby ravines. Even after being notified, the builder sometimes neglects to clean up the site and keep it clean.

4.13 CONSTRUCTION ACCESS

Discussion – Why the ACC believes we should make this change:

The HOA Board and the ACC frequently receive complaints about excessive mud and gravel debris tracked onto the SPCE roads from our construction sites. While it is inevitable that this will occur to some degree during construction, we should at least be able to say that we have written the guidelines so as to reasonably minimize this.

At present we only require that “The base course and aggregate should be applied and rolled to prevent the transfer of mud/debris onto paved roadways by vehicles during construction. Such aggregate should be laid on the driveway for at least 100 feet from the road or to the construction area, whichever is shortest.”

While this 100 ft of driveway preparation helps, in many cases the mud is tracked from closer to the house. So we propose that the requirement for driveway preparation be extended to the entire eventual driveway.

5.12 REQUEST FOR VARIANCE

Discussion – Why the ACC believes we should make this change

Last year the ACC and SPCE Board approved the use of an updated variance form and instructions. This new text and variance form needs to be inserted as section 5.12