



## **POLICIES AND PROCEDURES**

**Document Date: April 16, 2023**

**Version: 0.18 DRAFT**

The signature below certifies that all Policies and Procedures and all other content in this document are duly adopted by the Board of Directors (BOD) of San Pedro Creek Estates (SPCE) Homeowner’s Association, Inc. (HOA) on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
SPCE Board Officer Name & Title

\_\_\_\_\_  
SPCE Board Officer Signature

**Table of Contents**

- [1. Purpose](#) ..... 1
- [2. Authorization](#) ..... 1
- [3. Scope](#) ..... 2
- [4. Definitions](#) ..... 2
- [5. Organization of Policies and Procedures](#) ..... 3
- [6. BOD General Duties](#) ..... 5
  - [6.1. Policy for Adoption of Policies and Procedures](#) ..... 5
  - [6.2. Policy on Code of Conduct for Directors and Committee Members](#) ..... 7
- [7. BOD Fiscal Duties](#) ..... 11
- [8. BOD Committee Oversight OR Management](#) ..... 11
- [9. BOD Community Interface OR Interactions OR Relations](#) ..... 11
- [10. SPCE Document Management](#) ..... 11
- [11. SPCE Website](#) ..... 11
- [12. Committees](#) ..... 11
- [13. Governing Documents](#) ..... 11
- [14. Association Management Company](#) ..... 11
  - [14.1. Policy for Assessment Collection](#) ..... 11
- [15. Change Log](#) ..... 15

## 1. Purpose

This document contains the Board of Directors (BOD) Policies and Procedures for the San Pedro Creek Estates (SPCE) Homeowner's Association (HOA). The intent of this document is to define, at a reasonable level of detail, those Policies and Procedures.

## 2. Authorization

Federal Law, New Mexico State Statutes (The Law) and our SPCE Governing Documents give the BOD the authorities necessary for the management of the affairs of SPCE-HOA and provides that the BOD may create Policies and Procedures to manage the Association, as long as they are not in conflict with The Law or our Governing Documents. As allowed by those authorities, the BOD will create, adopt, and update written Policies and Procedures in order to be more efficient, consistent, and transparent, and to provide continuity for Board Directors, Committees and the Community. Below is the hierarchy of The Law and SPCE Governing Documents:

- Federal Law, as applicable by topic
- New Mexico Nonprofit Corporation Act
- New Mexico Homeowners Association Act
- The Declaration of Restrictions ("Declaration")
- Articles of Incorporation
- By-Laws
- Policies and Procedures (Board Actions)

If it is found that a Policy or Procedure in this document conflicts with The Law or our SPCE Governing Documents, The Law or Governing Document shall take precedence. The Policy or Procedure in which the conflict is found shall be revised or deleted as soon as reasonably possible.

Policies and Procedures within this document supersede all other SPCE Policies and Procedures similar or identical to those contained in this document.

### 3. Scope

Once adopted, Policies and Procedures shall be followed for the various activities and actions required to fulfill the BOD's duties.

This document shall be considered a living document and can be expanded and amended, by current and/or future BOD's, by following the "Procedure for Adoption of Policies and Procedures" defined in this document.

### 4. Definitions

**Policy** – the philosophies, general goals, and rules applied to the management of affairs to guide decisions and set conditions for a function or entity. A Policy may contain a Procedure.

**Procedure** – the steps taken, typically in order, to accomplish a task.

**Director** – a Member of the SPCE Board of Directors comprised of all currently serving Directors.

**Committee** – Ad-hoc group of SPCE-HOA Members tasked by the BOD to perform a project or address a defined need for the community.

## **5. Organization of Policies and Procedures**

Below is a list of categories under which Policies and Procedures are organized along with brief description of what types of Policies and Procedures fit into each category.

### **BOD General Duties**

This category contains Policies and Procedures pertaining the duties carried out by the BOD. Some of these duties may be routinely performed while others may be occasionally or rarely performed.

### **BOD Fiscal Duties**

This category contains Policies and Procedures pertaining to the fiscal duties and responsibilities of the BOD. Among several fiscal duties carried out by the BOD, this category also includes policies and procedures associated with placement and management of contracts for acquisition of goods and services for the HOA.

### **BOD Committee Oversight**

This category contains Policies and Procedures pertaining to guidelines, delegations, general operations and reporting requirements for HOA committees.

### **BOD Community Relations**

This category contains Policies and Procedures pertaining to interactions and communications with the SPCE Community.

### **Document Management**

This category contains Policies and Procedures pertaining to documentation created and maintained by the SPCE HOA.

### **SPCE Website**

This category contains Policies and Procedures pertaining to the creation, maintenance, and use of the SPCE Website.

### **Governing Documents**

This category contains Policies and Procedures pertaining to following, clarifying, interpreting, amending and enforcing the SPCE Governing Documents.

### **Association Management Company**

This category contains Policies and Procedures pertaining to requirements, roles and responsibilities, and interactions between the HOA and the Association Management Company.

## 6. BOD General Duties

This section includes Policies and Procedures that the BOD will follow while executing duties routinely carried out by the BOD.

### 6.1. Policy for Adoption of Policies and Procedures

The purpose of this Policy is to establish the guidelines and define the procedure for the creation, review, adoption, amending, or deletion of Policies and Procedures initiated at any level of the San Pedro Creek (SPCE) Home Owner's Association (HOA).

- 6.1.1. This Policy was adopted on April XX, 2023. Version 1.0. Last updated April XX, 2023.
- 6.1.2. The SPCE BOD has sole decision-making authority for review, adoption, amending, and deletion of Policies and Procedures.
- 6.1.3. Any Director, Committee Member, or Community Member may submit Policy and/or Procedure recommendations and drafts for Board consideration.
- 6.1.4. All Policy and Procedure CREATION recommendations will be reviewed by the BOD which will make the determination if the Policy or Procedure is deemed necessary and, if so, will move the submission through the steps below.
- 6.1.5. Each Policy and Procedure shall be appropriately categorized per the Organization of Policies and Procedures section defined earlier in this document.
- 6.1.6. Each Policy and Procedure shall include:
  - 6.1.6.1. Simple Title
  - 6.1.6.2. Purpose Statement
  - 6.1.6.3. For a Policy – the Policy statement(s) and associated procedural steps if needed.
  - 6.1.6.4. For a Procedure – the Procedure's steps
  - 6.1.6.5. Other pertinent details such as:
    - 6.1.6.5.1. Timing and/or scheduling

6.1.6.5.2. Any requirements and/or conditions to bring the HOA into compliance with this Policy or Procedure.

6.1.6.5.3. Financial implications

- 6.1.7. At their discretion, the BOD may seek legal review or seek input and/or review from SPCE Committees, the SPCE Community, or from any subject matter expert.
- 6.1.8. The BOD shall review and modify content as it deems necessary.
- 6.1.9. Hold a BOD vote to adopt, amend, or delete the Policy or Procedure via allowable BOD voting methods.
- 6.1.9.1. A positive majority BOD vote is required for a Policy or Procedure to be adopted, amended, or deleted.
- 6.1.9.2. A tie vote shall go to the negative.
- 6.1.10. If the BOD vote passes to ADOPT a new Policy or Procedure, it shall be added to the appropriate section within this document.
- 6.1.11. If the BOD vote passes to AMEND an existing Policy or Procedure, the existing Policy or Procedure in this document shall be replaced with the new language approved by the BOD.
- 6.1.12. If the BOD vote passes to DELETE an existing Policy or Procedure, the existing Policy or Procedure shall be deleted from this document.
- 6.1.13. A new Policy or Procedure will include a line stating “This [Policy or Procedure] was created on [Date]. Version [X.X]. Last updated [Date]”
- 6.1.14. An amended Policy or Procedure shall have its Version number and Last Updated [Date] updated.
- 6.1.15. An entry will be made in the Change Log Section with a brief description of the change made to this document.
- 6.1.16. This document’s version number and date shall be updated and the new version of this document shall be posted on the SPCE Website.

## **6.2. Policy on Code of Conduct for Directors and Committee Members**



The BOD of San Pedro Creek Homeowners' Association (SPCEHOA) has the authority and responsibility to make decisions for the benefit of the entire community and wishes to ensure that it and its individual members (Directors), Committee Chairs and their Members (Leaders) maintain a high standard of ethical conduct in the performance of the Association's business, and that the Association's members maintain confidence in and respect for its Board and Committees.

- 6.2.1. This Policy was adopted on April XX, 2023. Version 1.0. Last updated April XX, 2023.
- 6.2.2. This Code of Conduct delineates standards of ethical behavior applicable to all members of the Board ("Directors"). It is also adopted that Committee Chairs and Members ("Leaders") serving the community will review and agree to similar standards of ethical behaviors
- 6.2.3. Directors are the elected leaders and fiduciaries of the financial trust and personal confidence of all of the members of the Association. Directors are required to deliberate and act in the best interests of the Association as a whole. Directors serve for the benefit of the entire community and will not use their positions for private gain.
- 6.2.4. Leaders are assumed to maintain the trust and personal confidence of all of the members of the Association. Leaders are required to deliberate and act in the best interests of the Association as a whole. Leaders serve for the benefit of the entire community and will not use their positions for private gain.
- 6.2.5. Each Director and Leader as of the date of the adoption of this Policy, shall sign his/her acceptance of the responsibility to comply with this Code of Conduct. Each Board Director and Leader shall sign annually to acknowledge his/her acceptance of this responsibility.
- 6.2.6. At the beginning of each BOD Meeting, Directors will review the agenda items and will inform the BOD if there are any discussion items that may pose an actual, perceived, or potential conflict of interest. Should a Director find him/herself in this position, the BOD shall pursue

- a responsible and ethical course of action. Similarly, Leaders will advise the BOD immediately if there is a question of actual, perceived, or potential conflict of interest in researching, contracting, or discussing community business on behalf of the Association and its members.
- 6.2.7. Directors and Leaders shall treat members of the Association with courtesy and respect and should expect such treatment in return. However, Directors and Leaders must be prepared to extend courtesy and respect even when they do not receive it.
- 6.2.8. Directors and Leaders shall conduct themselves professionally at all times. Directors or Leaders may challenge each other on professional conduct, but any discussion or challenge of another Director's conduct should only take place in Executive Session, or in the case of Committee issues, with the BOD directly.
- 6.2.9. Directors and Leaders will not knowingly misrepresent or distort facts to the Board or the Association. Directors should make best efforts to gather the information required to make an informed decision based on facts instead of relying exclusively on second- hand information.
- 6.2.10. Directors, Committee Chairs, and their Members shall not seek to have a contract implemented that has not been duly approved by the BOD.
- 6.2.11. Directors and Leaders shall not interfere with the duties of management staff or any contractor executing an existing contract. All communications with contractors must be in accordance with BOD policy.
- 6.2.12. Directors and Leaders shall, at all times, maintain the confidentiality of all legal, contractual, personnel, management or personal matters involving the Association unless and until the Board has taken official action to release specific information.
- 6.2.13. Directors and Leaders agree to respect and abide by the decisions of the BOD and of the Association members, whether by majority or supermajority, as applicable to the issue decided according to the Bylaws.
- 6.2.14. Directors and Leaders shall not attempt to subvert such BOD or Association decisions.

- 6.2.15. Directors and Leaders shall comply with Governing Documents and relevant laws.
- 6.2.16. Directors will be familiar with the Articles of Incorporation, Bylaws, CC&Rs, and other Governing Documents of the Association. Directors shall comply with and make decisions that are consistent with these Governing Documents.
- 6.2.17. Leaders will be familiar with specific Articles of Incorporation, Bylaws, CC&Rs, and other Governing Documents of the Association as they pertain to the information and authority of the Committee served. Leaders shall comply with and make decisions that are consistent with these Governing Documents.
- 6.2.18. Directors and Leaders will lead by example and provide guidance and understanding of the documents of the Association to the Association membership. This Code of Conduct will be periodically reviewed for reasonableness, clarity, and best practices.



- 7. BOD Fiscal Duties**
- 8. BOD Committee Oversight OR Management**
- 9. BOD Community Interface OR Interactions OR Relations**
- 10. SPCE Document Management**
- 11. SPCE Website**
- 12. Committees**
- 13. Governing Documents**
- 14. Association Management Company**

This section contains Policies and Procedures pertaining to requirements, roles and responsibilities, and interactions between the HOA and the Association Management Company.

#### **14.1. Policy for Assessment Collection**

The following procedures and practices are established for the collection of Assessments owing and to become owing by the Owners of Lots in the Association and the same are to be known as the "Assessment Collection Policy" for the Association in the discharge of its responsibilities regarding collection of Assessments levied against Lots:

- 14.1.1. This POLICY was adopted on March 8, 2023. Version 1.1. Last updated April 19, 2023
- 14.1.2. POLICY OBJECTIVE. The Association will pursue collection of all Assessments pursuant to the Declaration and this Assessment Collection Policy. The term "Assessment" shall include Regular Assessments and Special Assessments or any other fees or taxes allowable in the Declaration of Restrictions, Covenants and Conditions.
- 14.1.3. OWNERSHIP INTERESTS. Pursuant to the Declaration, the person who is the Owner of a Lot as of the date an Assessment becomes due is personally liable for the payment of the Assessment. The personal

obligation for delinquent Assessment shall not pass to the successors in title of the Owner unless expressly assumed by them.

- 14.1.4. HANDLING CHARGES AND RETURNED CHECK FEE. In order to recoup costs incurred because of the additional administrative expenses associated with collecting delinquent Assessments, collection of these fees and charges are part of the Collection Policy. These fees and charges, including a Collection Notice Fee, will be added to the amount outstanding and are collectible to the same extent and in the same manner as the delinquent Assessment.
- 14.1.5. APPLICATION OF FUNDS RECEIVED. All moneys received by the Association will be applied to amounts outstanding to the extent of and in the following order:
  - 14.1.5.1. First to the unpaid Assessment amount;
  - 14.1.5.2. Next, to interest accrued;
  - 14.1.5.3. Last to late fees, returned item fee, lien fees, collection costs and attorney's fees incurred by or on behalf of the Association.
- 14.1.6. PARTIAL PAYMENTS AND APPLICATION OF FUNDS. Partial payments will not prevent the accrual of interest on the unpaid portion of the Assessment. The owner will still be considered to be delinquent upon making partial payments.
- 14.1.7. OWNERSHIP RECORDS. All collection notices and communications will be directed to those persons shown by the records of the Association as being the Owner of the Lot for which Assessments are due and will be sent to the most recent address of such Owner solely as reflected by the records of the Association. Any notice or communication directed to a person at an address, in both cases reflected by the records of the Association as being the Owner and address for a given Lot, will be valid and effective for all purposes pursuant to the Declaration and this Assessment Collection Policy until such time as there is actual receipt by the Association of written notification of any change in the identity or status of such Owner or its address or both.
- 14.1.8. NOTIFICATION TO OWNER. –

- 14.1.8.1. 10 DAYS DELINQUENT - LATE NOTICE. A payment by a member is deemed delinquent if it is unpaid Ten (10) or more days after the due date. A late notice will be sent via regular first-class mail.
- 14.1.8.2. 30 DAYS DELINQUENT - 2<sup>nd</sup> LATE NOTICE. No sooner than Thirty (30) days after the due date, the Association will send a notice via regular first-class mail to the Owner setting forth the amount of the delinquent Assessment owing. A late fee of \$25 will be charged to the Owner's account and all fees associated with this letter will be charged to the Owner's account, including an additional Collection Notice Fee. Interest will be charged at the rate 18% per annum as allowed in the Declaration.
- 14.1.8.3. 60 DAYS DELINQUENT - INTENT TO LIEN NOTICE. No sooner than Sixty (60) days after the due date, the Association will send a notice of Intent to Lien to the Owner making formal demand for immediate payment for all outstanding amounts. The Intent to Lien notice will be sent via regular first-class mail. All fees associated with this letter, including an Intent to Lien fee, will be charged to the Owner's account.
- 14.1.8.4. 90 DAYS DELINQUENT - RECORDATION OF LIEN. Ninety (90) days after the due date, if an Owner fails to pay in full the entire amount conveyed in the Intent to Lien notice by the date specified, a written notice of lien will be prepared and recorded with the County Clerk. A lien fee will be charged to the Owner's account.
- 14.1.9. ALTERNATIVE COLLECTION COURSES. The BOD, acting with input and recommendation from management and/or counsel, will evaluate which course of legal action is deemed to be in the best interest of the Association for recovery of unpaid Assessments. Where foreclosure of the Assessment lien in favor of the Association against a Lot, together with pursuit of personal judgment against the Owner, is determined to

be advisable, or personal judgment alone, the Board will direct counsel to proceed accordingly.

- 14.1.10. OWNER'S AGENT OR REPRESENTATIVE. If the owner expressly or impliedly indicates to the Association that the owner's interest in the property is being handled by an agent or representative, any notice from the Association to such agent or representative pursuant to this Collection Policy shall be deemed to be full and effective notice to the owner for all purposes.
- 14.1.11. IT IS FURTHER RESOLVED THAT this Assessment Collection Policy replaces and supersedes in all respects all prior resolutions with respect to the collection of Assessments by the Association and is effective upon adoption hereof, to remain in force and effect until revoked, modified, or amended.



## 15. Change Log

- April 16, 2023. Draft of this document ready for BOD adoption and posting to website. This new document includes 3 policies. Policy for Adoption of Policies and Procedures, Policy on Code of Conduct for Directors and Committee Members, Policy for Assessment Collection.