



POLICIES AND PROCEDURES

Document Date: September 20, 2023

Version: 1.4

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 20th day of September, 2023.

Andre Biane, President

SPCE Board Officer Name & Title

A handwritten signature in black ink that reads "Andre Biane". The signature is written in a cursive style with a horizontal line underneath it.

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
 - 6.3. Procedure for Action by Directors Without a Meeting 11
 - 6.4. Procedure for Pro/Con Statement Development..... 14
- 7. BOD Fiscal Duties..... 30
- 8. BOD Committee Oversight..... 30
- 9. BOD Community Relations..... 30
 - 9.1. Policy for BOD Communications with Our SPCE Community 30
- 10. SPCE Document Management 35
- 11. SPCE Website..... 35
- 12. Committees 35
- 13. Governing Documents 35
- 14. Association Management Company 35
 - 14.1. Policy for Assessment Collection 35
 - 14.2. Policy on Compliance..... 38
- 15. Change Log 44

SPCE POLICIES & PROCEDURES

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 shows where this document falls in the hierarchy of The Law and SPCE Governing Documents:

1. Federal Law, as applicable by topic
2. New Mexico Nonprofit Corporation Act
3. New Mexico Homeowners Association Act
4. The Declaration of Restrictions ("Declaration")
5. Articles of Incorporation
6. By-Laws
7. 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.

SPCE POLICIES & PROCEDURES

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 POLICIES & PROCEDURES

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 19, 2023. Version 1.0. Last updated April 19, 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

SPCE POLICIES & PROCEDURES

- 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 19, 2023. Version 1.0. Last updated April 19, 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

SPCE POLICIES & PROCEDURES

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.

SPCE POLICIES & PROCEDURES

- 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.

6.3. Procedure for Action by Directors Without a Meeting

The purpose of this Policy is to establish the circumstances in which the BOD is permitted by The Law to take an action without a meeting, and the Procedures that are followed to take that action.

Occasionally, the BOD is presented with an emergency that requires a vote on a matter prior to the next scheduled BOD meeting. An emergency is defined as a situation that could not have been reasonably foreseen, which requires immediate attention and possibly action by the BOD.

This PROCEDURE was adopted on May 17, 2023. Version 1.0. Last updated May 17, 2023

In this type of emergency, the BOD will follow the steps below:

- 6.3.1. A Director (the initiator) of the BOD will notify all other Directors of the issue by email or phone. The notification will include:
 - 6.3.1.1. the details of the situation,
 - 6.3.1.2. why it is considered to be an emergency, including any critical timeline or dates by which action must be taken,
 - 6.3.1.3. a suggested Action that should be taken by the Directors without a Meeting and
 - 6.3.1.4. the proposed text for the resolution that is to be approved by all Directors (i.e., a motion).
- 6.3.2. All Directors should respond as soon as possible to the initiator with questions, comments or changes that they have, if any.
- 6.3.3. Once the initiator has collected responses per 1.1.2, she/he will communicate by email or phone to all Directors with any modifications to the proposed text sent per 1.1.1.4. Each Director must respond to the initiator clearly stating either “I agree” or “I disagree.”

SPCE POLICIES & PROCEDURES

- 6.3.3.1. If all Directors respond “I agree,” then the Action by Directors Without a Meeting process may continue with step 6.3.4.
- 6.3.3.2. If any Director does not respond to the notification per Section 6.3.1, or responds “I disagree,” then the BOD cannot proceed with the Action by Directors Without a Meeting. In this case, the BOD has the option to call a Special Board meeting to discuss and vote on the matter according to normal BOD meeting and voting requirement. Otherwise, the matter could be addressed at the next regularly scheduled BOD meeting.
- 6.3.4. The initiator will complete Section 6.3.8 “Written Consent of All Directors to Action by Directors Without a Meeting” (the Form) and email it to all of the Directors requesting an email or verbal reply stating that they support the Action by Directors Without a Meeting and will sign the Form at the next BOD Meeting.
- 6.3.5. This constitutes unanimous approval to take the Action without a Meeting, and unanimous approval of the proposed Resolution.
- 6.3.6. The initiator, or his/her designee, will complete the emergency Action that the BOD authorized, as applicable to the specific situation.
- 6.3.7. At the next BOD meeting, in the appropriate section of the agenda, the initiator will announce that the BOD has taken an Action by Directors Without a Meeting. She/he will describe the Action and request that all Directors sign the Form and that the completed Form be made part of the minutes from that BOD meeting.
- 6.3.8. See next page for the FORM for Procedure for Action by Directors Without a Meeting.

SPCE POLICIES & PROCEDURES

WRITTEN CONSENT TO ACTION WITHOUT MEETING OF ALL
THE DIRECTORS OF

San Pedro Creek Estates Homeowner's Association, Inc.

A New Mexico Corporation

The undersigned, being all the Directors of San Pedro Creek Estates Homeowner's Association, Inc. a New Mexico corporation, pursuant to the NM Nonprofit Corp Act Section 53-8-97, hereby consent to the following action, without a meeting, and waive all notice or other meeting requirements.

RESOLVED, [Text of Resolution]

Officer/Office

[Name], PRESIDENT

Dated as of _____

The undersigned, being all the Directors of San Pedro Creek Estates Homeowners Association, Inc., waive the required notice of meeting and consent to all actions taken hereof.

[Name], Vice President

[Name], Secretary

[Name], Treasurer

[Name], Director

[Name], Director

[Name], Director

6.4. Procedure for Pro/Con Statement Development

A Pro and Con (Pro/Con) statement can be helpful in many situations when evaluating and making a decision on a complex or controversial issue. A properly developed Pro/Con statement will include a factual introduction and summary which adequately conveys the situation including potential benefits, advantages, and positive outcomes along with the drawbacks, disadvantages and negative outcomes of the issue. The intent is to help individuals make an informed decision that is based on the available factual information about an issue, as well as the opinions of others. A Pro/Con statement may help the BOD determine if an issue is relevant or significant and therefore may require action by the BOD.

Pro/Con statements should take a structured and balanced approach that incorporates a reasonable level of information and relevant perspectives. Below outlines a recommended procedure for the development of Pro/Con statements.

- 6.4.1. This Procedure was adopted on August 16, 2023. Version 1.0 Last updated August 16, 2023
- 6.4.2. Assignments
 - 6.4.2.1. There are typically three assignments for development of a Pro/Con statement. One for the Introduction and Overview, one for the Pro and one for the Con.
 - 6.4.2.2. A Director most familiar with the issue should volunteer as the owner of the Introduction and Overview and compiling the overall document.
 - 6.4.2.3. A Director in favor of the issue should volunteer as the owner of the Pro statement.
 - 6.4.2.4. A Director opposed to the issue should volunteer as the owner of a Con statement.
 - 6.4.2.5. There should be different Pro and Con owners, but either can also serve as the owner of the Introduction and Overview if appropriate.

SPCE POLICIES & PROCEDURES

- 6.4.2.6. In the case when the BOD deems a Pro/Con Statement is required but no Directors volunteer, the President will assign an owner.
- 6.4.2.7. Any owner can seek assistance from any SPCE member or subject matter expert.
- 6.4.3. Define the topic
 - 6.4.3.1. Clearly state the issue at hand, ensuring that the topic is specific, well defined, and objectively stated.
- 6.4.4. Gather information
 - 6.4.4.1. Collect as much information as possible on the issue which may include facts, data, statistics, expert opinions, and SPCE Owner experiences. Conduct research from credible sources such as government reports, news articles, and community members.
- 6.4.5. Introduction and Overview development
 - 6.4.5.1. This should be a summary, yet adequately detailed to allow someone unfamiliar with the issue to understand the situation.
 - 6.4.5.2. It should be completely unbiased and include only facts such as historical information and data.
 - 6.4.5.3. In the case of a Pro/Con statement being associated with a ballot issue or amendment to a Governing Document, the Introduction and Overview should include what occurs if the voting results are for or against the ballot issue.
 - 6.4.5.4. This should include input and feedback from both sides of the issue.
 - 6.4.5.5. It is recommended that the Introduction and Overview be no longer than one page.
- 6.4.6. Pro and Con statements development
 - 6.4.6.1. These two statements should be clear, concise, persuasive, and are biased by nature.
 - 6.4.6.2. The Pro statement should be written to communicate the benefits, advantages, and positive outcomes of the issue.

SPCE POLICIES & PROCEDURES

- 6.4.6.3. The Con statement should be written to communicate the drawbacks, disadvantages, negative outcomes, and unintended consequences related to the issue.
- 6.4.6.4. Both statements can include opinion.
- 6.4.6.5. Opposing Pro/Con owners cannot provide comments other than requests to correct inaccuracies.
- 6.4.6.6. Both statements should be similar in length and recommended to be no longer than ½ page each so that both can be placed on a single page.
- 6.4.7. Pro/Con Submissions
 - 6.4.7.1. Committees or SPCE Lot Owners may submit Pro/Con Statements to the BOD to be considered in decision making or for sharing with the SPCE Owners as appropriate.
 - 6.4.7.2. It is recommended, but not required, that this procedure be used to develop Pro/Con Statements.
 - 6.4.7.3. The BOD has sole discretion of the use or modification of submitted Pro/Con Statements.
- 6.4.8. Review and Approval
 - 6.4.8.1. All Pro/Con Statements must be reviewed and approved by the BOD before it is Posted, Blasted, or incorporated into an Annual Meeting Packet, or distributed in any manner by the SPCE-HOA.

6.5. Policy and Procedure for Annual Meeting, Annual Ballot Development, and Vote Counting

The purpose of this policy and procedure is to outline the necessary logistics for the Annual Meeting, establish the guidelines for creating the Annual Meeting ballot and counting the votes cast.

The Law requires that an Annual Meeting be held of the members of the Homeowner's Association. The SPCE By-Laws outline the content of the annual meeting which include selection of Board of Directors, consideration of reports of the affairs of the Corporation and transaction of other HOA business.

SPCE POLICIES & PROCEDURES

Although the By-Laws state that the meeting should be held on the 1st Tuesday in December, the date can be changed by a vote of the Board and has typically occurred in January of the following year.

- 6.5.1. This Policy was adopted on September 20, 2023. Version 1.0. Last updated September 20, 2023.
- 6.5.2. Refer to the table below for timeline and dates associated with activities and actions which must typically be completed in preparation for the Annual Meeting and are described later in this document. Specific dates listed below assume the Annual Meeting occurs mid-to-late January. However, if the BOD sets the Annual Meeting date earlier, specific dates listed below should be reviewed and adjusted accordingly.

| | |
|--|--|
| 2 weeks prior to July BOD meeting | Submission deadline for proposals to amend a Governing Document (GD) |
| 2 weeks prior to September BOD meeting | Submission deadline for issues for community vote proposals |
| 1 week prior to September BOD meeting | Post and Blast GD amendment and ballot issue proposals |
| October 1 | Post and Blast draft ballot language |
| 1 week prior to October BOD meeting | Working session to review DRAFT Annual Budget |
| 1 week prior to October BOD meeting | Post and Blast DRAFT Annual Budget |
| October BOD meeting | Discuss DRAFT Annual Budget |
| October BOD meeting | Announce number of Director positions to be elected |
| October BOD meeting | Decide on range of dates for Annual Meeting |
| October BOD meeting | Annual Meeting Venue research assignment |
| November 1 | Freeze ballot language |

SPCE POLICIES & PROCEDURES

| | |
|---|---|
| November BOD meeting | BOD vote on proposed GD amendments and issues to be on Annual Meeting ballot |
| November BOD meeting | BOD vote on date of Annual Meeting if not 1 st Tuesday in December |
| November BOD meeting | Finalize and approve Annual Budget |
| ASAP after November BOD meeting | Provide Annual Budget to Association Manager |
| December 1 | Submission deadline for Director Candidate Statements of Interest. |
| ASAP after December 1 | Post Candidate Statements of interest and send announcement Blast |
| One month prior to Annual Meeting | Blast calling for Election Committee volunteers |
| At minimum, one month prior to Annual Meeting | Send Annual Meeting ballot for printing |
| At minimum, three weeks prior to Annual Meeting | Mail Annual Meeting packet and ballot |
| 2 weeks prior to Annual Meeting | Send Blast reminder about Annual Meeting and ballots |
| 1 week prior to Annual Meeting | Send Blast reminder about Annual Meeting and ballots |
| During Annual Meeting | BOD Ratify Annual Budget |

6.5.3. Candidates for Director Positions

6.5.3.1. The BOD will announce the number of Director positions that are open for the following year.

6.5.3.2. All Candidates must be in good standing with the HOA and must submit their “Statement of Interest” form by the deadline in order to be a candidate on the Annual Meeting ballot.

SPCE POLICIES & PROCEDURES

- 6.5.3.3. The BOD will announce Candidates and the BOD Secretary will post Candidate Statements to the SPCE Website and send an Email Blast to announce the posting as soon as possible after the deadline to submit Candidate Statements.
- 6.5.3.4. Candidate nominations will not be allowed to be made from the floor of the Annual Meeting.
- 6.5.4. Amendments to Governing Documents Proposals
 - 6.5.4.1. Lot Owners, Committees and Directors may propose changes to the Governing Documents. All proposed changes must be submitted in writing to the BOD by the submission deadline. The submission must include a redline of the proposed change, a justification for making the change and draft PRO/CON statements.
 - 6.5.4.2. The BOD will post submitted proposals which meet the requirements and will seek and consider all inputs from appropriate Committees, the community, and other subject matter experts if applicable.
 - 6.5.4.3. Any Governing Document amendment proposal that could result in a conflict with or between The Laws or Governing Documents will not be placed on the Annual Meeting ballot.
 - 6.5.4.4. The BOD will vote on which submissions will be included on the Annual Meeting ballot.
 - 6.5.4.5. The BOD will announce any proposed changes to the Governing Documents that will appear on the Annual Meeting ballot, along with the information about how many votes will be required to pass the proposed change.
 - 6.5.4.6. Any Governing Document Amendment proposal that is not approved by the BOD for inclusion on the Annual Ballot may be resubmitted the following year for reconsideration.
 - 6.5.4.7. Any Governing Document Amendment proposal that fails to pass may be resubmitted to the BOD for reconsideration three years after the failing vote was held.
- 6.5.5. Issues for Community Vote Proposals

SPCE POLICIES & PROCEDURES

- 6.5.5.1. Lot Owners, Committees and Directors may propose issues for the Annual Meeting ballot for community vote. The proposal must be submitted in writing to the BOD by the submission deadline. The submission must include a justification for bringing this issue to community vote and draft PRO/CON statements.
- 6.5.5.2. The BOD will post submitted proposals which meet the requirements and will seek and consider all inputs from appropriate Committees, the community, and other subject matter experts if applicable.
- 6.5.5.3. Any issues for community vote proposals that could result in a conflict with or between The Laws or Governing Documents will not be placed on the Annual Meeting ballot.
- 6.5.5.4. The BOD will vote on which submissions will be included on the Annual Meeting ballot.
- 6.5.5.5. The BOD will announce proposals that will appear on the Annual Meeting ballot that require a community vote.
- 6.5.5.6. Any issue for community vote that is not approved by the BOD for inclusion on the Annual Ballot may be resubmitted the following year for reconsideration.
- 6.5.5.7. Any issues for community vote that fail to pass may be resubmitted to the BOD for reconsideration three years after the failing vote was held.
- 6.5.6. All Lot Owners in good standing with the HOA are allowed to vote. One ballot will be provided to each Lot Owner. Any Owner of multiple lots in SPCE will receive multiple ballots corresponding to number of lots owned.
- 6.5.7. Voting by Lot Owners may be conducted by mail (postal or email), in-person or proxy.
- 6.5.8. Voting is by secret ballot. The only exception is if a proxy is assigned and the Lot Owner's vote will be known to whom the proxy is assigned (the proxy holder).
- 6.5.9. Voting may be done by one of two types of proxies:

SPCE POLICIES & PROCEDURES

- 6.5.9.1. General Proxy: Allows the proxy holder to make voting decisions on all ballot items without direction from the Lot Owner appointing the proxy holder.
- 6.5.9.2. Directed Proxy: Contains explicit directions to the proxy holder as to how to vote. A Directed Proxy assigned to another Lot Owner will empower that proxy holder to vote as directed on Governing Document Amendment proposals, community issues and BOD Candidates.
- 6.5.9.3. A General Proxy assigned to the BOD will empower the BOD to cast consensus votes on Governing Document amendment proposals, community issues and BOD Candidates. In order to establish the BOD's consensus votes, each Director will complete an exact copy of the secret ballot sent to the community and deliver it to the Association Manager prior to the Annual Meeting who will tally the BOD's votes. The BOD majority vote shall be used as the consensus vote on the General Proxy ballot for each of the Governing Document amendment proposals and community issues. Director Candidates will be rank ordered per BOD votes and the top ranked Candidates equaling the number of Director positions available will each be given one vote on the General Proxy ballot. If unique conditions arise, additional BOD discussion may be required to reconcile the BOD consensus vote. The completed General Proxy ballot shall be delivered to the Election Committee at the Annual Meeting.
- 6.5.10. The Annual Meeting Packet shall include the following
 - 6.5.10.1. Voting Instructions Document that includes the Proxy Authorization Form
 - 6.5.10.2. A secret ballot with no identification on it
 - 6.5.10.3. A ballot privacy envelope with a unique control number for each lot pre-printed on the outside (the number may also be put on the mailing envelope)

SPCE POLICIES & PROCEDURES

- 6.5.10.4. A postage-paid return envelope addressed to the current Association Management Company, attention [Name of current Association Manager]
- 6.5.10.5. Candidate Statements of Interest
- 6.5.10.6. Statements regarding Community Issues to be voted on including a preamble for each ballot item with adequate information, history, and balanced opinions (PRO & CON), for the community to make an informed decision even if they are unfamiliar with this issue.
- 6.5.10.7. The Annual Budget for the next year and the prior year's actual expenses.
- 6.5.11. Forming the Election Committee
 - 6.5.11.1. An Election Committee shall be formed every year for the purpose of vote counting and certification.
 - 6.5.11.2. The BOD will send out an email blast calling for volunteers to serve on the Election Committee.
 - 6.5.11.3. Only SPCE Lot Owners in good standing with the HOA and the Association Manager can be members of the Committee.
 - 6.5.11.4. The Committee must include three or more Lot Owners.
 - 6.5.11.5. In cases when not enough Lot Owners volunteer, the BOD shall appoint additional Lot Owners.
 - 6.5.11.6. Volunteers MUST be able to attend the Annual Meeting in person.
 - 6.5.11.7. Current Directors and Director candidates cannot serve on the Committee.
 - 6.5.11.8. The Association Manager will contact the Lot Owners that will serve as the Committee and appoint a Committee Chairperson.
- 6.5.12. Election Committee Charter

SPCE POLICIES & PROCEDURES

- 6.5.12.1. At minimum, two volunteers will greet meeting attendees and verify they are Owners using a list provided by the Association Manger. If the attendees bring a ballot, the volunteers can accept the ballot and deliver it to the Election Committee Members responsible for Ballot Counting.
 - 6.5.12.2. The Association Manager will coordinate with Election Committee Members to count the mailed and e-mailed ballots before the Annual Meeting. After these ballots are counted, the Association Manager will have the Election Committee Members sign a Vote Certification affidavit certifying that the counting was conducted in an accurate and ethical manner.
 - 6.5.12.3. The Association Manager will coordinate with Committee Members to count the ballots hand delivered to the SPCE Annual Meeting. After these ballots are counted, the Association Manager will have the Committee Members sign a Vote Certification affidavit certifying that the counting was conducted in an accurate and ethical manner.
 - 6.5.12.4. The results of the election, with the final vote totals, will be provided to the President of the HOA at the Annual Meeting prior to the end of the meeting. The President or his/her designee will announce the results of the election at the Annual Meeting. The number of votes each Director candidate received will not be published. An email blast will be sent out as soon as possible after the Annual Meeting to announce the results of the election to all SPCE Lot Owners who are registered to receive emails from the HOA.
- 6.5.13. Vote Count Requirements
- 6.5.13.1. Ballots received after the Annual Meeting will not be counted.
 - 6.5.13.2. Ballots having more votes cast than allowed will not be counted.

SPCE POLICIES & PROCEDURES

- 6.5.13.3. Passage or Failure of Issues for Community Vote is determined by a simple majority of those eligible Lot Owners casting a vote on the Annual ballot. In the case of a tie vote, the determination goes to the negative, or failure of the issue.
- 6.5.13.4. The table below contains the vote count requirements to pass amendments to the Governing Documents.

| Maximum # of Votes in HOA*: 379 | Articles of Incorporation Article VII B (1 vote per Lot) | |
|---|--|--|
| Member Quorum: 25% | By-Laws Section 2.06 | |
| Board Quorum= 4 | By-Laws Section 3.13 | |
| *Except for election of Directors, where each Lot Owner can cast the number of votes equal to the number of Directors to be elected. | | |
| Document Name | Voting Requirement to Amend | Reference |
| Declaration | 75% of the vote or written consent of the voting power of the members | Section 11.01(a)(1) |
| Articles of Incorporation | 2/3 of Lots | Article VIII |
| By-Laws | a) Vote of 2/3 of the voting power present at a properly held meeting at which there is a quorum OR b) Written assent of members owning 2/3 of Lots | Article IX |
| | | Example: 201 valid votes cast at annual meeting 201 x 2/3 = 134 134 affirmative votes required to pass |
| <p>Note: For voting calculations, Voting Power, Lot Owners and Members all refer to the number of Lots that are eligible to vote. Example: There are 379 Lots in the community. If there are 6 Lots that are ineligible to vote due to a compliance issue, the Voting Power or number of Lot Owners that can vote on an issue is 373. In this example, the number of affirmative votes required to amend the Declaration would be 280 (373 x 75% = 279.75, rounded up to 280).</p> | | |

6.5.14. Annual Meeting Venue Considerations

- 6.5.14.1. Adequately sized to accommodate and seat all expected attendees (150+) including parking.
- 6.5.14.2. Entrance must enable a setup for attendee check-in and collection of ballots.
- 6.5.14.3. Audio-visual capabilities to display electronic briefing material such that all attendees can easily view and amplified sound so all attendees can hear presentations and BOD discussion.
- 6.5.14.4. Internet access to broadcast the Annual Meeting to remote attendees.

SPCE POLICIES & PROCEDURES

6.5.14.5. American Disabilities Act (ADA) compliant.

6.5.15. Ballot Development

6.5.15.1. The election of Board Directors should be made simple and straight forward. The Ballot should include adequate information to describe how to cast votes but not so detailed as to create confusion.

6.5.15.2. Ballot issues should be a simple, one sentence question that can easily be answered yes or no.

6.5.15.3. See below an example ballot and proxy authorization form which can be used as a template for each year's Annual Meeting election.

SPCE POLICIES & PROCEDURES

EXAMPLE SECRET BALLOT

Change this example ballot as required for each year's Annual Ballot

Voting for SPCE Board Directors:

This section of the ballot is for the election of Board Directors for the San Pedro Creek Estates Homeowners Association (SPCE). The SPCE Governing Documents allow for cumulative voting in electing Board Directors, meaning you may use all of your votes for one candidate or apportion your votes among multiple candidates. The number of votes you may cast is equal to the number of vacancies, or number of candidates if there are fewer than the number of vacancies. If you own multiple lots, you will receive multiple ballots, fill each of them out per the instructions above. Candidate statements are included in this Annual Meeting packet so please review those before casting your votes.

This year you may cast a total of Three (3) votes for Board Director candidates. Using a black or blue pen, completely fill in the number of dots corresponding to the number of votes you wish to cast for each candidate. You may fill in more than one dot for a candidate, but the total number of dots filled in cannot exceed Three (3) dots.

| <u>Candidate Name</u> | <u>Your Votes</u> | | |
|-----------------------|-----------------------|-----------------------|-----------------------|
| Jane Doe | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| John Smith..... | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| Jim Jones..... | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| June Cleaver..... | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |

SPCE POLICIES & PROCEDURES

Additional Voting Initiatives:

The SPCE HOA Board of Directors are asking the community to vote on one (1) proposed Amendment to the Governing Documents and one (1) Community Issue. Background and Pro and Con statements are included in the Annual Meeting packet, so please review the information before voting.

Proposed Governing Document Amendments

1. Proposal is to amend the **Declaration (CC&R's) Article N.NN x Article Title** by *adding/deleting* [brief explanation]. The result of this Amendment is [brief explanation]. Proposed added/deleted text is shown below as **ADD/DELETE**.

Proposed Change to Section N.NN x, Article Title: “[Enter proposed amendments clearly shown in **RED** with deletions in **RED strike-through**.]”

Passage of this proposed amendment requires YES votes cast by [enter number of votes required] of the voting power of the members.

Are you in favor of this proposed Amendment?

YES...
NO...

Community Issue Vote

2. Proposal is to **spend up to \$20 of SPCE HOA Dues** to put up a shade structure for squirrels at the front entrance of SPCE?

Passage of this proposal requires a simple majority vote of the Lot Owners.

Are you in favor of this proposal?

YES...
NO...

SPCE POLICIES & PROCEDURES

Submitting Your Ballot

You have four (4) ways to vote in the SPCE Annual Meeting Election:

- 1. Personally deliver your ballot to the SPCE Annual Meeting on MM/DD/YYYY.**
- 2. OR - Mail your ballot-** Seal your completed ballot in the enclosed privacy envelope. Then place the sealed privacy envelope in the enclosed postage paid envelope addressed to Current Association Management Company and drop it in the mail no later than MM/DD to ensure it is delivered prior to the Annual Meeting.
- 3. OR - Scan and e-mail your ballot** to Current Association Manager's Name at: Current Association Manager's e-mail address. Please put the following in the subject line: SPCE Ballot for Control # XXXX listed on the outside of the postage paid envelope mailed to you.
- 4. Vote by Proxy** - complete the Proxy Authorization Form to authorize someone vote on your behalf. The Proxy Ballot along with the Proxy Authorization Form can be submitted by any of the methods listed above.

Note: If you feel that you have spoiled your ballot, you may contact Current Association Management Company to request a fresh ballot.

Ballot Return Deadline:

All Ballots sent via the US Mail or E-Mail must be received by the Association Manager by **MM/DD/YYYY**.

SPCE POLICIES & PROCEDURES

Proxy Authorization Form

By completing the *Proxy Authorization*, you may assign your vote by proxy to another HOA member or to the Board of Directors of the Association.

Directed Proxy:

I/We (OWNER'S NAME) _____ being the owner(s) of (ADDRESS) _____ located in San Pedro Creek Estates Homeowners Association, Sandia Park, New Mexico, do hereby acknowledge receipt of the Notice of Annual Meeting, and revoking all previous proxies, hereby authorizes and appoints (NAME) _____ to cast my secret ballot for the election of Board Members and other Ballot items prior to the Annual Meeting of the members of San Pedro Creek Estates Homeowners Association, to be held on MM/DD/YYYY.

If you assign your vote to another HOA member, they must either mail or e-mail your completed ballot with its privacy envelope AND this completed authorization. This must be received by MM/DD/YYYY; or hand deliver the ballot to the SPCE Annual Meeting on MM/DD/YYYY.

General Proxy:

If no name is designated, I authorize and appoint the Board of Directors of the Association, to act as my proxy. This proxy confers discretionary authority to the Board to provide a consensus vote on all Ballot items on my behalf.

Signature of Owner

Date

This proxy is not valid unless signed and dated by the homeowner of record of the property listed above

7. BOD Fiscal Duties

8. BOD Committee Oversight

9. BOD Community Relations

9.1. Policy for BOD Communications with Our SPCE Community

The purpose of this Policy & Procedure is to establish the methods and protocols used by the BOD to communicate accurately and effectively with the members of our community. This Policy & Procedure does not replace or modify the formal notice required for BOD meetings and members’ meetings, as stipulated in The Law and Governing Documents.

Effective communication is crucial to the success of our HOA, and a clear policy regarding communication from the BOD to our HOA members is necessary to ensure the community is well informed, involve the community in HOA affairs and activities, promote transparency, and avoid misunderstanding. In addition, the Directors must also be available to respond within a reasonable timeframe to any questions or concerns raised by members.

9.1.1. This Policy & Procedure was adopted on June 21, 2023. Version 1.0. Last updated June 21, 2023.

9.1.2. The SPCE BOD uses two mechanisms to send messages and share information with the entire SPCE community:

9.1.2.1. emails (“email blasts”)

9.1.2.2. SPCE website postings

9.1.3. To receive email blasts or access to SPCE website postings, the Member must have registered an email address on the SPCE website.

9.1.4. Social media or other media outlets shall not be used for SPCE BOD messaging or communication.

9.1.5. Responsibilities and authorizations

9.1.5.1. The Secretary is the primary individual responsible for sending email blasts and managing web website postings on behalf of the BOD.

SPCE POLICIES & PROCEDURES

- 9.1.5.2. The Secretary is responsible for setting SPCE Website access control permissions and shall designate an alternate who can set SPCE Website access control permissions when the Secretary is not available.
- 9.1.5.3. Only currently serving Directors may be given the appropriate permissions to send email blasts or post to the SPCE Website. Any Director can make a request to the Secretary for permissions to send email blasts and/or post to the SPCE Website.
- 9.1.5.4. In some cases, the BOD may approve a committee chair to have permission to send email blasts but not be given permissions to post to the SPCE Website.
- 9.1.5.5. The Secretary shall review and update SPCE Website access permissions following every annual election or whenever Board member changes occur or a committee chair no longer needs email blast permissions.
- 9.1.5.6. The BOD may revoke permissions from a Director or a committee chair through a BOD majority vote.
- 9.1.6. Email Blasts
 - 9.1.6.1. The phrase “email blasts” or “blasts” is used to describe a mechanism of the SPCE Website used to send an email message to registered SPCE members.
 - 9.1.6.2. Email blasts are usually used to make announcements, share information, or send other notifications relevant to the entire SPCE community.
 - 9.1.6.3. Directors and committee chairs shall use good and ethical judgement when deciding on the purpose and content of an email blast. See the Policy on Code of Conduct for Directors and Committee Members for detailed information.

SPCE POLICIES & PROCEDURES

- 9.1.6.4. For complex, significant, or controversial matters, it is highly recommended that at least two Directors be involved in the creation of the initial draft and the Director must send the draft to the entire board for feedback and seek BOD approval prior to the email blast being sent.
- 9.1.6.5. The draft email blast should include:
 - 9.1.6.5.1. A short, descriptive subject line
 - 9.1.6.5.2. A clear statement of the intent of the message
 - 9.1.6.5.3. A clear and concise message
 - 9.1.6.5.4. Any expectations of the SPCE members
 - 9.1.6.5.5. Any timing requirements or constraints associated with the email blast
- 9.1.6.6. Directors may submit their draft content for email blasts to the Secretary for review and sending. The Secretary can choose to request amendments or consult with other Directors before sending but must do so in a timely manner.
- 9.1.7. SPCE Website Posting
 - 9.1.7.1. “Website Postings” is the phrase used to describe the action of adding content to the SPCE Website by either uploading documents, or adding or modifying text or images in order to share information with SPCE Members and create archives of information.
 - 9.1.7.2. A Director shall use good and ethical judgement when creating content to be posted. See the Policy on Code of Conduct for Directors and Committee Members for detailed information.
 - 9.1.7.3. For complex, significant, or controversial matters, it is highly recommended that at least two Directors be involved in the creation of the website content and the Director must send a draft of the content to the entire board for feedback and seek BOD approval prior to the content being posted.

SPCE POLICIES & PROCEDURES

- 9.1.7.4. Posting of new website content and changes to existing website content are made by emailing the content to the Secretary with a request to post to include:
 - 9.1.7.4.1. The draft of the content which may be a document attached to the email
 - 9.1.7.4.2. A brief description of what the content is
 - 9.1.7.4.3. A recommendation for where the content is to be posted on the website
 - 9.1.7.4.4. Any time constraints for when the content must be posted
- 9.1.7.5. The Secretary can choose to request amendments or consult with other Directors before making the posting but must do so in a timely manner.
- 9.1.8. Responding to messages from SPCE Members
 - 9.1.8.1. Handling of formal complaints which may result in violations being issued is beyond the scope of this Policy & Procedure.
 - 9.1.8.2. The specific details for responding to questions and comments to the Board shall be handled on a case-by-case situation but must be done in a timely fashion.
 - 9.1.8.3. A response must be sent within 4 days of receipt of the message. In the case of a complex question or comment, an initial courtesy response can be sent to simply state that the question or comment was received and a follow-on reply will be made once more information is gathered.
 - 9.1.8.4. For those situations when significant time is required to research the situation, occasional status messages should be sent.
 - 9.1.8.5. For simple, straight-forward matters, the Director most familiar with the subject can respond, copying the entire BOD on his/her response. If no Directors respond or volunteer to do so, the President will either take the lead or assign the responsibility to one or a team of Directors.

SPCE POLICIES & PROCEDURES

- 9.1.8.6. In the cases where an inquiry falls within the purview of a specific committee (e.g., ACC-related question), the Secretary can make the decision to forward the question or comment to the appropriate committee requesting they respond. The Secretary should either request that the committee include the Secretary in the response distribution or ask for a status within 4 days of the request.
- 9.1.8.7. A Director shall use good and ethical judgement and always respond in a respectful manner, knowing that he/she is likely to be perceived as speaking on behalf of the entire BOD.
- 9.1.8.8. The response may be through direct email, virtual or face-2-face meeting, phone conversation, or text messaging. In some situations where the response applies to the entire community, an email blast response may be appropriate.
- 9.1.8.9. For complex, significant, or controversial matters, it is highly recommended that at least two Directors be involved in the creation of the response and the Director must send the draft of the response to the entire board and integrate their feedback prior to sending the response. All responses of this nature must be sent via email with all directors copied on the emailed response.

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.

SPCE POLICIES & PROCEDURES

- 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. –

SPCE POLICIES & PROCEDURES

- 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 - 2nd 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

SPCE POLICIES & PROCEDURES

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.

14.2. Policy on Compliance

This defines the Policy and Procedures for both reporting a violation and for the sequence of actions once a violation has been confirmed

This establishes Policy that there will be a consequence for those who continue to be in violation of the SPCE Governing Documents. The procedures for handling instances of non-compliance and the schedule of enforcement fines are geared towards the lot owners that refuse to comply, even after they have been notified on numerous occasions.

- 14.2.1. This Policy & Procedure was adopted on July 29, 2019. Version 1.1. Last updated September 20, 2023.
- 14.2.2. SPCE-HOA has authority pursuant to an act of the Legislature of the State of New Mexico to enforce the provisions set forth in the Association's Declarations; Articles of Incorporation; Bylaws; Design Guidelines; and Policies, as may be amended from time to time; (Governing Documents).
- 14.2.3. The following procedures and practices are established for the enforcement of violations of the Governing Documents' use restrictions

SPCE POLICIES & PROCEDURES

and architectural control provisions, and for the elimination of violations of such provisions found to exist in, on, or about any property within the Association, and the same are to be known as the "Compliance Policy" of the Association in the discharge of its responsibilities for determination and enforcement of remedies for violations within the community.

14.2.4. The BOD does not conduct, or authorize in any way, routine neighborhood compliance inspections. However, if a complaint is made by any SPCE Owner alleging non-compliance, the board must follow the procedures outlined in this Policy and Procedure.

14.2.5. Procedure for Reporting an Instance of Alleged Non-compliance

14.2.5.1. All requests that the Association remedy an alleged instance of non-compliance must be submitted in writing and signed by the lot owner to the Association Manager, an employee of the firm retained by the Association to manage its business affairs. See Complaint Form at end of this Policy & Procedure.

14.2.5.2. The written requests may be sent via mail or email.

14.2.5.3. The Association Manager shall investigate the request and discuss it, if needed, with the Architectural Control Committee for issues relating to the Design Guidelines, or with the Board for all other issues.

14.2.6. Procedure for Handling Instances of Non-compliance. Once a determination is made that an instance of non-compliance exists, the following sequence of actions shall be initiated:

14.2.6.1. COURTESY CALL. Owner will receive a Courtesy Call from the Association Manager notifying them of the violation. This call shall afford Owner the opportunity to ask questions, discuss resolution of the violation, and to be informed of the consequences of continued non-compliance should resolution not be reached. Owner may contest the violation by submitting an appeal in writing to the Association Manager for review and consideration by the Board.

SPCE POLICIES & PROCEDURES

- 14.2.6.2. COURTESY LETTER. If after fourteen (14) calendar days of the date of the Courtesy Call the violation is determined to still exist; a Courtesy Letter shall be sent by first class Certified Mail. Owner shall be warned that if the violation is not resolved within fourteen (14) calendar days from the date of the Courtesy Letter, Owner will be subject to enforcement fines. Owner may contest the violation by submitting an appeal in writing to the Association Manager for review and consideration by the Board.
- 14.2.6.3. NOTICE of VIOLATION. If after fourteen (14) calendar days of the date of the Courtesy Letter the violation is determined to still exist, a Notice of Violation shall be sent by first class Certified Mail. The Notice of Violation shall reiterate the process for submitting a written appeal to the Association Manager. The Notice of Violation shall specify the amount of the enforcement fine being imposed upon receipt of this Notice of Violation (see Schedule of Enforcement Fines). At this point, Owner may submit a written request to the Association Manager for a Hearing. Owner shall be informed that if the violation is not resolved within thirty (30) calendar days from the date of the Notice of Violation, Owner will be subject to additional enforcement fines.

SPCE POLICIES & PROCEDURES

14.2.6.4. NOTICE of CONTINUING VIOLATION. If after thirty (30) calendar days from the date of the Notice of Violation the violation is determined to still exist and Owner has not submitted an appeal or requested a Hearing, a Notice of Continuing Violation shall be sent by first class Certified Mail. The Notice of Continuing Violation shall include the details of the violation, the amount of the enforcement fine being imposed upon receipt of this Notice of Continuing Violation, and the process for submitting a written request to the Association Manager for a Hearing. The enforcement fine shall be imposed every month, and accumulate as an aggregated fine for as long as the violation continues.

14.2.7. Schedule of Enforcement Fines. Following is the schedule of enforcement fines that shall be imposed for violating the Governing Documents of the Association, including violations of the Architectural Control Provisions:

14.2.7.1. Courtesy Call _____ No Fine

14.2.7.2. Courtesy Letter _____ No Fine

14.2.7.3. Notice of Violation _____ \$75.00

14.2.7.4. Notice of Continuing Violation _____ \$150.00

14.2.7.5. Enforcement fines shall continue to be assessed monthly and accumulate as an aggregated fine for as long as the violation continues.

14.2.8. Time Frame for Collection of Enforcement Fines.

14.2.8.1. The Board reserves the right to allow a grace period in the schedule of enforcement fines, based on individual circumstances.

14.2.8.2. An owner requesting a grace period shall submit to the Board a written plan to resolve the violation that includes specific corrective actions with milestone dates. If the Board approves the plan, the grace period may extend as long as milestones for corrective action are met.

14.2.9. Collection of Enforcement Fines

SPCE POLICIES & PROCEDURES

- 14.2.9.1. All enforcement fines shall be collected in the same manner as any other assessment or monetary penalty pursuant to the Governing Documents of the Association.
- 14.2.9.2. Owner shall remain liable for all costs incurred under this Compliance Policy, which costs, if not paid upon demand thereof, shall be referred to the Association for collection as an assessment pursuant to Article 6, Section 6.01, Section 6.04 and Section 6.07 of the Restrictions.

14.2.10. Violation Hearing Process

- 14.2.10.1. **RIGHT TO A HEARING.** Any Owner found by the Association to be in violation of the Governing Documents may request a hearing to offer a defense or explain extenuating circumstances regarding the imposition of enforcement fines.
- 14.2.10.2. **REQUESTION FOR A HEARING.** Owner must submit a written Request for Hearing, which shall be mailed, emailed, or hand-delivered to the Association Manager no later than ten (10) calendar days from the date of the Notice of Continuing Violation. The Request for Hearing should include: Owner and/or Occupant's defense of, or explanation of extenuating circumstances regarding the violation; and copies of supporting documents.
- 14.2.10.3. **ACKNOWLEDGEMENT OF REQUEST FOR HEARING.** Within seven (7) calendar days of receiving a Request for Hearing, the Association Manager shall notify Owner in writing that the request has been received and inform Owner of the date, time, and location of the hearing.

SPCE POLICIES & PROCEDURES

14.2.10.4. **THE HEARING.** If Owner requests a Hearing on an Architectural Control Committee decision, the appeal shall be heard by the Board. If an Owner requests a Hearing on a Board decision, the appeal shall be heard by an ad hoc hearing committee appointed by the Board. This committee shall be composed of two (2) members of the Board and three (3) Association members who are not members of the Board. The Board shall not appoint to the committee any member of the Association who has, or appears to have, a direct interest in the outcome of the hearing. If the ad-hoc hearing committee affirms a violation by majority vote, the committee shall recommend a course of action to be taken by the Board. The ad-hoc hearing committee shall submit its recommendation to the Board no later than ten (10) days after the date of the hearing.

14.2.10.5. **STAY OF ENFORCEMENT FINES.** If a timely request for a hearing is received, further enforcement actions and fines shall be stayed, pending the outcome of the hearing. If the Owner appeal is not successful, all interim enforcement fines shall become due and payable.

14.2.11. Compliance Recordkeeping

14.2.11.1. The Association Manager shall keep a record of all compliance complaints.

14.2.11.2. Records of relatively minor issues may be brief; they shall identify all parties involved, the nature of the alleged violation, the dates of action, and resolution.

14.2.11.3. Records of major complaints shall include all correspondence, Board and ad hoc hearing committee recommendations, relevant actions taken by Owner, and resolution.

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.
- April 19, 2023. SPCE BOD voted to adopt this document along with the 3 policies listed above.
- May 17, 2023. Corrected dates in revision control line in the Policy for Assessment Collection
- May 17, 2023. SPCE BOD voted to adopt Procedure for Action by Directors Without a Meeting.
- June 21, 2023. SPCE BOD voted to adopt Policy & Procedure for BOD Communications with Our SPCE Community
- August 16, 2023. SPCE BOD voted to adopt Procedure for Pro/Con Statement Development
- September 20, 2023. SPCE BOD voted to adopt Policy on Compliance. This was an existing Policy but was very slightly amended and integrated into this document.
- September 20, 2023. SPCE BOD voted to adopt Policy and Procedure for Annual Meeting, Annual Ballot Development, and Vote Counting
- September 20, 2023. Created MS Word Styles to help automate indexing and formatting. Use Styles Normal, Heading 1, Heading 2, Heading 3, Heading 4, Heading 5 when integrating new P&Ps into this document.