

**SCENIC HEIGHTS SUBDIVISION
PROPERTY OWNERS ASSOCIATION**

MANUAL

of

POLICY AND PROCEDURES

**As adopted by the Board of Directors
and amended from time to time**

Document No. PP-111 Revision Date (05/25/2013)

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PROPERTY OWNERS ASSOCIATION**

POLICY AND PROCEDURES

As promulgated and approved by the Board of Directors
Document No. PP-111 Revision Date (05/25/2013)

6.1 Architectural Review	10
6.2 Deed Restriction Enforcement variances / waivers	10
6.3 Late Fees	10
6.4 Application for Building Permit	10
6.5 Application for POST-Construction Building Permit	11
6.5(a) Fines for UNFINISHED construction and ILLEGAL occupancy	11
6.6 Sales Certificate / Resale Certificate	11
6.7 Transfer Fee	11
6.8 Copy Fees.....	11
6.9 Returned Check Fee.....	12
7. BUDGET	12
7.1 Proposed Budget.....	12
8. MEETINGS	12
8.1 Notice.....	13
8.2 Sign in Sheet.....	13
8.3 Attendance:	13
8.4 Agenda	13
8.5 Minutes	14
8.6 Records of meetings.....	14
9. DUTIES AND RESPONSIBILITIES.....	14
9.1 President.....	15
9.2 Vice-Presidents	15
9.3 Secretary	15
9.4 Treasurer	16
9.5 Parliamentarian	16
9.6 Board Members.....	16
9.7 Committee Members.....	16
10. DISTRICTS SURVEILLANCE.....	16
10.1 District 1 (Green & Purple)	17
10.2 District 2 (Orange)	17
10.3 District 3 (Blue)	17
10.4 District 4 (Pink).....	17
10.5 District 5 (Yellow).....	17
11. RESOLUTIONS	17
11.1 Binding Effect.....	17
11.2 Reconsideration.....	17

**SCENIC HEIGHTS SUBDIVISION
PROPERTY OWNERS ASSOCIATION**

POLICY AND PROCEDURES

As promulgated and approved by the Board of Directors
Document No. PP-111 Revision Date (05/25/2013)

1. PURPOSE

The purpose of this document is to define policy and procedures to be applied by the Scenic Heights Subdivision Property Owners Associations' Officers and Board of Directors in order to promote consistency and improve continuity in actions taken by the Association under various circumstances administered by this Association both now and in the future.

2. SCOPE

The Policies and Procedures shall not contravene the Deed Restrictions, the Articles of Incorporation or Bylaws of the Corporation, but rather clarify policies implemented to carry out the intent and purpose of those instruments. These policies and procedures apply to all aspects of performing the purpose and functions of the Association. The Board may, from time to time, within the confines of reasonable interpretation of the Articles of Incorporation and Bylaws of the Corporation, amend these policies and procedures by majority vote of the Board of Directors.

3. DEFINITIONS

Architectural Control Committee (the ACC) -a group of Officers, Members, and/or Board of Directors appointed by the Board of Directors and specifically assigned the responsibility and authority to review and take action on matters of size, function, design and site placement of structures built on lots within the Scenic Heights Subdivision.

Board of Directors (the Board) -The group of individuals who own property within the subdivision elected by the general membership and who have legal authority and responsibility to manage and conduct all business on behalf of the SHSPOA.

Deed Restrictions - All of the Declarations of Reservations, Restrictions and Covenants of Units 1,2,3, &4 as recorded in Volume 229 Page 827 falling within the jurisdiction of the SHSPOA.

Deed Restriction Committee -a subset of the Board of Directors, specifically appointed from time to time and assigned the responsibility and authority to investigate and recommend actions to the Board on deed restriction matters.

**SCENIC HEIGHTS SUBDIVISION
PROPERTY OWNERS ASSOCIATION**

POLICY AND PROCEDURES

As promulgated and approved by the Board of Directors
Document No. PP-111 Revision Date (05/25/2013)

District - A subset of lots, or designated streets, or other identifiable smaller area of the subdivision identified and set aside for representation or monitoring by certain individuals.

Improved Lot -A lot that has a finished structure constructed upon it.

Lot - A property within the Subdivision generally identified by its Unit, and Lot numbers. Lots may either be improved or unimproved.

Member - As defined in Article III of the Bylaws of the Corporation adopted in 1997.

Officer - Any member elected by the Board of Directors to fill the post of President, Vice-President, Secretary, or Treasurer.

Owner of Record - The legal entity named as "Grantee" on most recent Deed recorded in the Official Public Record of Comal County, or the vendee of an executory contract for the conveyance, or party responsible for payment of taxes and dues under a contract on property located within the Subdivision.

Scenic Heights Subdivision Property Owners Association: (the Association or SHSPOA) - A legal entity (non-profit corporation) responsible for maintenance of the common areas for the mutual benefit of all property owners, assessment and collection of assessments, deed restriction enforcement, architectural control enforcement, and authorized to take action on matters incidental to these duties.

Subdivision - Scenic Heights Units 1, 2, 3 & 4 which are under the jurisdiction of the SHSPOA.

Unimproved Lot -A lot that does not have a structure constructed upon it.

Unit - A specific subset of the Subdivision for which a shared set of Deed Restrictions exists.

Variance - A signed and notarized instrument stating a specific change that alters, affects, or relaxes a restrictive covenant relative to a lot.

Waiver - A signed and notarized instrument stating the total elimination or abolishment of a restrictive covenant relative to a lot.

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**SCENIC HEIGHTS SUBDIVISION
PROPERTY OWNERS ASSOCIATION**

POLICY AND PROCEDURES

As promulgated and approved by the Board of Directors
Document No. PP-111 Revision Date (05/25/2013)

4. ASSESSMENTS

All charges to a member's "Quick Books" account constitute assessments.

On June 1 of each year (or as soon thereafter as is practical) an invoice will be generated in the bookkeeping system for each active account representing assessments for the current year with a due date of October 1.

The \$12.00 per year Assessment is set by the Deed Restrictions and constitutes a lien against the property that runs with the land regardless of owner.

The Bylaws, as ratified by general membership in 1997 stipulates that each owner shall pay only one \$12.00 annual assessment regardless of how many lots he owns.

4.1. Calculation of Assessments.

Each "owner of record" is assessed \$12.00 per year for each lot (or set of lots) or tract (or set of tracts) owned on June 1 of each year. Owners who maintain property in multiple names have one bookkeeping account for each name, and are charged one assessment for each account name covering a lot or lots held in separate legal names, even if their legal address results in invoices being mailed to the same address for multiple accounts.

At the time of generation of the invoice for annual assessment, if the previous year's assessment has not been paid, the "Late Fee" is add to the account.

4.2. Balance Transfers

Any time property is sold or transferred to a new owner (other than the County Trustee), a new account is immediately set up for the new owner if one does not exist (ie: if the purchaser did not previously own property in the subdivision).

All unpaid Assessments, Late Fees, and other outstanding balances due on the seller's account as of the date of sale of the property is transferred to the new purchaser's account and shall be collected in due course as in the like manner of other assessments. The \$12.00 assessment is not prorated between seller and purchaser as in the case with taxes because the entire twelve dollars is assessed all at one time, and in advance, on June 1 of the assessment year.

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**SCENIC HEIGHTS SUBDIVISION
PROPERTY OWNERS ASSOCIATION**

POLICY AND PROCEDURES

As promulgated and approved by the Board of Directors
Document No. PP-111 Revision Date (05/25/2013)

The County Trustee does not pay prior or new assessments and is not billed, however regular assessments continue to accrue against the lots individually while title is held by the County Trustee and are transferred to the new owner purchasing the property from the County Trustee, subject to procedures of foreclosure under "Foreclosure Sales" below.

If the purchaser who owns other property in Scenic Heights purchases another lot or lots with outstanding prior charges and/or unpaid assessments, the prior outstanding balance is transferred to the purchaser's account and collected in due course together with assessments on the purchaser's previously owned lot or lots. NOTE: Under this circumstance, an owner may be required to pay more than one \$12.00 per year assessment for multiple lots. (e.g. Assessments are assessed in advance on June 1 each year and due by October 1 of that year. If the assessments have been assessed, but have Not been paid by the seller, they have nevertheless been ASSESSED and are as yet unpaid, therefore the new buyer takes the lot or lots subject to this condition - meaning he must pay the previous owner's assessment, PLUS that of his own lots which have already been separately ASSESSED. Transfer of property with unpaid assessments to a member (an owner of other lots in Scenic Heights) in good standing DOES NOT extinguish those outstanding assessments on the new lots he purchases.

4.3. Foreclosure Sales

A mortgage or other foreclosure sale does NOT extinguish unpaid SHSPOA assessments. The lien created against property by SHSPOA assessments is superior to ALL other liens (except an ad valorem tax lien under the conditions stated in the following paragraph). Unpaid assessments are transferred to the foreclosure sale purchaser and continue to accrue against the property uninterrupted while title is held by the foreclosure sale purchaser.

A foreclosure sale of a superior lien (a Tax Authority only,) will extinguish the lien resulting from unpaid assessments if, and only if, the Association is served citation or receives actual notice of the suit to foreclose the tax lien. If the Association receives such notice, it must, in order to preserve its interest in the property, join the tax suit as an interested party and include its delinquent assessments in the suit with the delinquent taxes to be collected and settled from the proceeds collected from the Sheriff's sale and distributed in proper priority by the Sheriff.

4.4 Late Fees on Assessments

A \$5.00 late fee is charged for assessments not received by November 30 of the year in which they become due. The Bylaws stipulate that another separate \$5.00 fee is charged for each subsequent year that annual assessments for a specific year remains

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**SCENIC HEIGHTS SUBDIVISION
PROPERTY OWNERS ASSOCIATION**

POLICY AND PROCEDURES

As promulgated and approved by the Board of Directors
Document No. PP-111 Revision Date (05/25/2013)

unpaid, all separate from and in addition to late fees charged for any other years assessments so being delinquent.

4.5 Collection

The current years invoice for assessments will contain a late fee for each prior year's assessment that payment thereof was not posted indicating payment prior to December 1 of the billing year, as set down in the Bylaws, for each years delinquent assessments that remains outstanding on May 30th of the billing year.

A notice and demand letter is sent by certified return receipt mail to an owner whose account is delinquent and the costs of certification are assessed to the property owner.

A notice of lien is filed in the property records on owners who fail or refuse to pay after 90 days of the owners receipt the above certified notice, with the appropriate charges for filing the lien assessed to the property owner.

If owner fails to pay assessments after receiving certified notification, the account may be sent to a collection agency and owner will be responsible for said debt plus cost of collection agency's fee.

5. DEED RESTRICTIONS

The Deed Restrictions that control the subdivision are those amended restrictions recorded in Volume 229 page 826 of the Comal County Deed Records and extended for subsequent ten year periods on May 31, 1995 and again on May 31, 2005 and as properly varied or waived in accordance with procedures specified below.

5.1 Deed Restriction Enforcement

Enforcement of Deed Restrictions will be uniform and in strict accordance with the recorded documents, including variances and waivers granted by the Board of Directors. No variance or waiver shall be granted for reasons that are arbitrary.

The Board of Directors may appoint a committee consisting of officers, association members, or Directors to investigate, consider, and make recommendations to the Board of Directors on enforcement of deed restrictions and variances or waivers.

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**SCENIC HEIGHTS SUBDIVISION
PROPERTY OWNERS ASSOCIATION**

POLICY AND PROCEDURES

As promulgated and approved by the Board of Directors
Document No. PP-111 Revision Date (05/25/2013)

5.2 Violations

District Representatives (surveyors) designated by the Board monitors activities within his/her district for new construction starts and violations of the Deed Restrictions.

It is a violation of Deed Restrictions to begin construction of any kind before receiving Board Approval. A building permit from the Board of Directors must be applied for and approved before any construction begins. Failure to apply for a building permit will generate a fee of \$300.00 and all work must cease until a building permit is applied for and approved by the Board of Directors.

A resolution passed by majority of the Board is required to conclusively determine violations of deed restrictions that are identified or perceived by a surveyor or committee. The resolution shall authorize the following actions to be taken. To eliminate the necessity of multiple Board meetings, all actions may be specified in the same resolution, however, any resolution must contain the time period allowed for correction and the action(s) to be taken if the violation is not voluntarily corrected.

1.) A letter will be sent to the owner by certified mail clearly identifying the violation or violations and requesting correction of the violation or a written explanation satisfactory to the Board within not more than twenty (20) days. The letter shall include the action the Board will take in the event the owner fails to comply.

2.) The certified mail cost as well as any other costs accrued in resolving the Deed Restriction violation(s) will be charged to the owner's account.

5.3 Building Permits

Before any construction begins, the owner must apply for a building permit from the Board of Directors. The application must include building plans, all specifications, plot plans, external design plans, a septic permit (the septic permit is issued by the Comal County Health Department), and a \$25.00 processing fee. No application will be processed until the fee is paid and all documents are submitted.

5.4 Variances

Variances may be granted only by resolution of the Board of Directors in response to a written application. The Board of Directors shall record the approved variance in the Comal County Official Public Records.

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**SCENIC HEIGHTS SUBDIVISION
PROPERTY OWNERS ASSOCIATION**

POLICY AND PROCEDURES

As promulgated and approved by the Board of Directors
Document No. PP-111 Revision Date (05/25/2013)

All requests for variances to Deed Restrictions must be in writing, shall be referred to as an "Application", and must be accompanied by the required fee (as shown under FEES). No application will be processed until the fee is paid. All applications must include plot plans, all specifications, building plans, and septic approval from State and local departments of health as stipulated in the Deed Restrictions. If the application is denied, the fee will be refunded to the applicant. The document and the application will both be committed to the Corporate Book of Records.

Any contested application for a variance of Property Line Setback shall be accompanied by a letter or statement signed by the property owners of surrounding property affected by the property line variance being sought and shall indicate clearly whether these property owners oppose or concur with the variance.

The Board of Directors may appoint a review committee to investigate any applications and make recommendations to the board.

5.5 Waivers

Waivers may be granted only by resolution of the Board of Directors in response to written applications. The Board of Directors shall record the approved waiver in the Comal County Official Public Record.

All requests for waivers to Deed Restrictions must be in writing, shall be referred to as an "Application", and must be accompanied by the required fee (as shown under FEES). No application will be process until the fee is paid. All applications must include plot plans, all specifications, building plans, and septic approval from State and local departments of health as stipulated in the Deed Restrictions. If the application is denied, the fee will be refunded to the applicant. The document and the application will both be committed to the Corporate Book of Records.

Any contested application for a waiver of Property Line Setback shall be accompanied by a letter or statement signed by the property owners of surrounding property affected by the property line waiver being sought and shall indicate clearly whether these property owners oppose or concur with the waiver.

The Board of Directors may appoint a review committee to investigate any waiver applications and make recommendations to the Board.

Waivers shall be granted exceedingly sparingly only under the most extreme of circumstances, only after determining that a variance is inadequate, and then only by

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**SCENIC HEIGHTS SUBDIVISION
PROPERTY OWNERS ASSOCIATION**

POLICY AND PROCEDURES

As promulgated and approved by the Board of Directors
Document No. PP-111 Revision Date (05/25/2013)

recommendation of any duly appointed review committee and resolution of the Board of Directors passed by two thirds (2/3) majority.

6. FEES / FINES

The Association will charge fees for services performed for or on behalf of owners that are specific and unique to that owner, whether requested by that owner, owners agent, or a committee of the association. Fees are set by resolution of the Board of Directors in accordance with Texas Property Code Chapter 209.002.

6.1 Architectural Review

Architectural review consists of any matters considered by the board regarding building plans, plot plans, or remodeling plans of a member.

6.2 Deed Restriction Enforcement variances / waivers

All applications for property line setback variances or waivers must be accompanied by a \$50.00 fee to cover the cost of preparation of the legal document to be filed, notarization of said document, county filing fees, and transportation costs to New Braunfels to file the document. If the application is denied, the \$50.00 fee will be refunded to the applicant.

6.3 Late Fees

On November 30th of each year, a \$5.00 late fee is charged for the current and each prior year with dues remaining unpaid as provided by Article IX of the Bylaws as amended by General Members at the Special Meeting of October 5, 2007. (On November 30 a separate \$5.00 charge is assessed for each year that an applicable year's dues remain unpaid, plus \$5.00 for the current year if it is unpaid.

6.4 Application for Building Permit

All applications must be accompanied by a \$75.00 fee to cover the cost of processing the application. If the permit is not granted, the \$75.00 fee will be refunded to the applicant.

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**SCENIC HEIGHTS SUBDIVISION
PROPERTY OWNERS ASSOCIATION**

POLICY AND PROCEDURES

As promulgated and approved by the Board of Directors
Document No. PP-111 Revision Date (05/25/2013)

6.5 Application for POST-Construction Building Permit

If a member does not apply for a building permit from the Board prior to start of construction, all applications must be accompanied by a \$300.00 fee. Additional fees may be incurred if violations of the Deed Restrictions have been constructed, including but not limited to variance/waiver fees and/or legal expenses.

6.5(a) Fines for UNFINISHED construction and ILLEGAL occupancy

All structures must be completed in accordance with approved plans and paragraph 3 of deed restrictions, and any property occupied in violation of paragraph 7 of deed restrictions, or the property owner will be subject to a deed restriction violation fine of \$100.00 per month starting on the first day of the month following the boards determination such violation exists and notifies the property owner.

6.6 Sales Certificate / Resale Certificate

The Association shall charge a \$25.00 fee pursuant to Chapter 207.003(c) consisting of those matters required by State law on approved form TREC NO 37-2.

6.7 Transfer Fee

The Association will charge a \$25.00 transfer fee pursuant to Chapter 207.003(c) for creating a new account in the Association bookkeeping system and transferring any/all outstanding balances and/or lot numbers from the previous owner's account to the new (transferee's) account.

The transfer fee shall apply to each Lot-Account being transferred on the books of the Corporation. (ie: if one person purchases three lots from three different current members, it would result in \$75.00 in transfer fees to the transferee's member account).

The transfer fee is accrued and applicable irrespective of the method of transfer, (individual to individual, real estate attorney, title company closing, contract for deed, or otherwise) and is charged on the books upon discovery by the Treasurer.

6.8 Copy Fees

A minimum of \$1.00 per page will be charged for copies of records.

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---Approved 09/20/10 ---

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09/20/10

**SCENIC HEIGHTS SUBDIVISION
PROPERTY OWNERS ASSOCIATION**

POLICY AND PROCEDURES

As promulgated and approved by the Board of Directors
Document No. PP-111 Revision Date (05/25/2013)

6.9 Returned Check Fee

A minimum \$35.00 will be charged on returned checks.

7. BUDGET

The Corporation shall keep accounting based upon the Calendar year. The Corporation has a very calculable and finite income that may be projected with reasonable accuracy at the beginning of each year. The Corporation must operate within a budget to insure preservation of reserve capital and insure financial responsibility with revenues. A "Budget Report" is to be given to the general membership at each Annual Meeting, stating, at a minimum, the gross receipts for the prior year, the gross expenditures for the prior year for general operations - and for capital improvements, and the gross dollar amount that total expenditures varied from the budget proposed and approved at the prior annual meeting.

7.1 Proposed Budget

The Board of Directors will approve a proposed budget for the next fiscal year and present it at the Annual Meeting of members. The proposed budget must consist of projected income and projected expenditures.

8. MEETINGS

ANY consumption of alcoholic beverages or the use of ANY controlled substance by a Board Member, Officer, or attendee is strictly prohibited. Any indication of such use or abuse, at the discretion of the President, shall be grounds for expulsion from the meeting.

The Annual Meeting of the General Members will be held in October of each year, in the Park - weather permitting, unless extenuating circumstances prevent the Board from preparing for it at that time, but must be held by December 31 as provided by Article 5 of the Bylaws as amended by General Members at the Special Meeting of October 5, 2007. The meeting is a presentation conducted according to a Board pre-approved agenda. A Special Meeting of the Board of Directors will convene at the conclusion of the Annual

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**SCENIC HEIGHTS SUBDIVISION
PROPERTY OWNERS ASSOCIATION**

POLICY AND PROCEDURES

As promulgated and approved by the Board of Directors
Document No. PP-111 Revision Date (05/25/2013)

Meeting for the purpose of scheduling the regular meetings of the Board and election of Officers for the next year.

Meetings of the Board of Directors are scheduled as needed and/or called or scheduled as set out below, but not less than four between Annual Meetings of the Members.

Board meetings are conducted in accordance with "Roberts Rules of Order" adopted for the Scenic Heights Subdivision Property Owners Association as extracted from "Rules of Order for Association Boards" by Jeffery A. Goldbert, Edition 1.0.

8.1 Notice

All meetings, except regularly scheduled meetings as set by resolution of the board, are to be noticed as set out in the Bylaws. Notice shall include place, date, time, of the meeting and copy of the agenda to be approved and followed at the meeting. If the meeting is scheduled outdoors, an alternate place must be provided in the event of inclement weather.

8.2 Sign in Sheet

A sign in sheet shall be dated and circulated at each meeting for all attendees to sign, with the completed sign-in sheet committed to the Corporate Book of Records.

8.3 Attendance:

A member who is unable to attend any Board meeting is expected to notify another Board member or officer who will be in attendance at the meeting. The board may censure a member for failure to so notify the board or for a Board member's habitual absence or tardiness.

Members may request to attend the open forum of a regular Board meeting by contacting a Board member or Officer four days prior to the meeting. The Board member or Officer must contact the President four days prior to the Board meeting in order for the attendee to be included on the agenda.

8.4 Agenda

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**SCENIC HEIGHTS SUBDIVISION
PROPERTY OWNERS ASSOCIATION**

POLICY AND PROCEDURES

As promulgated and approved by the Board of Directors
Document No. PP-111 Revision Date (05/25/2013)

All Board meetings will be conducted in accordance with written Agenda. Matters not on the Agenda may be brought before a meeting only by being properly recognized under "other business".

Agenda of the Annual Meeting of Members is prepared by the Board of Directors and approved for distribution not less than 30 days before the meeting. Draft of the next Annual Meeting Agenda should begin as soon as practicable after an Annual Meeting, but in no case more than 180 days after the Annual Meeting.

Agenda of Regular Meetings of the Board are prepared by the President and sent to all members not less than three (3) days prior to the meeting time. An Officer or the Board Members calling a Special Meeting of the Board of Directors is to prepare the agenda for such meeting and send copies to all Board members not less than three (3) days before the scheduled time of the meeting.

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09/20/10

8.5 Minutes

Upon calling to order of any meeting, a "secretary of the meeting", usually the corporate Secretary, is appointed by the Chairman of the meeting for taking of the minutes.

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Minutes of all Board meetings are read, approved (with changes as needed), signed by President and one Director, and committed to the Corporate Book of Records at the next Board meeting, or as soon thereafter as practicable.

The Corporate Seal is placed on minutes committed to the Corporate Book of Records, and may not be removed or changed thereafter, except minutes older than one year may be removed and archived to relieve space in the Corporate Book of Records.

Approved 05/14/07

8.6 Records of meetings

The Notice, Sign in Sheet, Agenda, and minutes are maintained and kept in the Corporate Book of Records for each meeting held.

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9. DUTIES AND RESPONSIBILITIES

The duties and responsibilities of Officers and Directors are to manage the Corporation for the benefit of the members and enforce the Deed Restrictions in the

**SCENIC HEIGHTS SUBDIVISION
PROPERTY OWNERS ASSOCIATION**

POLICY AND PROCEDURES

As promulgated and approved by the Board of Directors
Document No. PP-111 Revision Date (05/25/2013)

manner prescribed by the Articles of Incorporation, the Bylaws, and applicable State law to the extent such instruments define such duties. Pursuant to the Bylaws, management of the Corporation is vested in the Board of Directors and is carried into affect by the Officers as directed by the Board of Directors. This policy and procedure manual intends to further define those duties, obligations, and responsibilities, but not enlarge them.

9.1 President

- a.) Direct Association operations to carry into affect those decisions of the Board of Directors.
- b.) Serve as the representative of the Association in all official business matters and forums.
- c.) Call to Order and preside over all meetings where the President is in attendance.
- d.) Function as Chief Executive Officer of the Corporation in all matters not reserved specifically to the Board of Directors by the Articles, Bylaws, or these Policies and Procedures.
- e.) Sign official documents on behalf of the Corporation.

9.2 Vice-Presidents

- a.) In the order of their election seniority, (1st Vice-President, 2nd Vice-President and so on) the Vice-Presidents shall:
- b.) Serve as the representatives of the Association in all official business matters and forums where the President and any senior Vice-President is absent.
- c.) Call to Order and preside over all meetings where the President and any senior Vice-President is NOT in attendance.
- d.) Function as Junior Executive Officer of the Corporation in order of their seniority in all matters not reserved specifically to the Board of Directors by the Articles, Bylaws, or these Policies and Procedures.
- e.) Sign official documents on behalf of the Corporation in the absence of the President or and any senior Vice-President.

9.3 Secretary

- a.) Take the minutes of all meetings.
- b.) Keep the Corporate Book of Records current, and in proper form and order.

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**SCENIC HEIGHTS SUBDIVISION
PROPERTY OWNERS ASSOCIATION**

POLICY AND PROCEDURES

As promulgated and approved by the Board of Directors
Document No. PP-111 Revision Date (05/25/2013)

9.4 Treasurer

- a.) Keep the Corporation's financial books.
- b.) Keep the checkbook.
- c.) Write all of the Corporation's checks as directed by the President or by resolution of the Board of Directors.
- d.) Receive all payments and make deposits.

9.5 Parliamentarian

- a.) Become familiar with Roberts Rules of Order as adopted by the Board.
- b.) Advise the Chair and Board Members on all questions of procedure

9.6 Board Members

- a.) Manage the business affairs of the Corporation through orderly deliberation and RESOLUTIONS in accordance with the Deed Restrictions, Articles of Incorporation, Bylaws of the Corporation and all applicable State laws.
- b.) Upon conclusion of the annual meeting, the Board Members will choose and vote to elect the Officers for the next annual term.

9.7 Committee Members

- a.) Perform such tasks as directed by their appointment.

10. DISTRICTS SURVEILLANCE

The subdivision is divided into five (5) districts with a monitor assigned to each district to report new construction and possible violations of Deed Restrictions. Colors are assigned to facilitate proper depiction on the subdivision map. A perceived violation or new construction is reported to the Board of Directors at the next meeting. If necessary, a committee is appointed to inspect or review and gather information for the Board to vote on determination of existence of a violation in accordance with Deed Restrictions - Violations.

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