

Southern Comfort Homeowners' Association
Directory of Policies, Procedures, and CC&Rs

IV. Common Area.

A. Description. The Southern Comfort subdivision contains twelve (12) non-contiguous, circular building Lots surrounded by a comprehensive Common Area designated as Lot 13. The Declaration (Article I, §4) defines the Common Area as the real property owned by the Association for the common use of the owners. The Common Area is identified on the subdivision diagram depicted in **Exhibit A**. The roads within the subdivision are specifically designated as part of the Common Area (Article XI, §2) and thus are also owned and controlled by the Association. Individual Owner Lots are circular in design and relatively small (.18 acres), rendering large portions of the visible property within the subdivision part of the Common Area, whatever the apparent current condition of the property might otherwise suggest. For descriptive purposes, the Common Area can be discussed in terms of two general sub-areas: (i) the large “open space” area on the west side of the subdivision, roughly between Broadway Run and Comfort Circle; and (ii) the “adjacent space” areas bordering and surrounding each of the subdivision’s building Lots.

B. Permissive Use. The Association has been advised by counsel that it is the sole owner of the Common Area. Individual Lot Owners have neither a personal ownership in, nor joint or other title to the Common Area, which is to be managed under applicable statutes and the Declaration for the benefit of the Association’s Members. Use of the Common Area by any Lot Owner in any respect is permissive, and thus subject to reasonable continuing administration by the Association, including by means of these Policies and Regulations.

C. Structures. No structure of any kind or character shall be erected, placed, or maintained on, in, or over any portion of the Common Area without the prior written approval of the Association. Any approval by the Association may contain such terms, conditions, and limitations as shall be reasonably necessary to ensure compliance with the Declaration and these Rules and Procedures, including (without limiting the foregoing):

1. Limitations on the scope and duration of the approval;
2. Obligations to remove any or all structures or to restore landscape appearance at the Applicant’s cost at a time certain or when directed by the Association;
3. Requirements to pay the Association’s fees and costs arising from or in connection with the permissive use; and
4. Monetary deposits to ensure future performance of the terms, conditions, and limitations of the permissive use.

D. Landscaping. Lot Owners may not alter the physical appearance of any portion of the Common Area, including but not limited to the planting or removal of vegetation and the contouring of land, without obtaining prior written approval of the Association. Any approval by the Association may contain such terms, conditions, and limitations as shall be reasonably necessary to ensure compliance with the Declaration and these Policies and Regulations, including (without limiting the foregoing):

1. Limitations on the scope and duration of the approval;
2. Obligations to remove vegetation and/or to restore landscape appearance at the Applicant’s cost at a time certain or when directed by the Association;

3. Requirements to pay the Association's fees and costs arising from or in connection with the permissive use; and

4. Monetary deposits to ensure future performance of the terms, conditions, and limitations of the permissive use.

A Lot Owner may make a written request regarding a proposed landscaping matter implicating the Common Area to any Director or to the property manager, PioneerWest. No special form or method of request is required; use of e-mail and text is encouraged. The Board will endeavor to respond promptly and will subsequently provide written confirmation of its determination. The Association may, in its sole discretion, approve or disapprove any application.

E. Light, Air, and View.

1. Application and Notice. A Lot Owner may make a written application to the Association concerning view obstruction which involves or pertains to the Common Area. The Board will initially determine whether the tree or other impediment is located on the Common Area. If so located, the Board will give any other Lot Owner(s) likely to be particularly impacted by the requested action reasonable notice thereof, including a copy of the written request for action, and will afford such Lot Owner(s) a reasonable time for response.

2. Evaluation. In reviewing such a request, the Association will take into consideration factors including but not limited to –

- a. Nature and scope of the requested action;
- b. Any separate requirement or necessity for the action from the Association's perspective (e.g., the existence of collateral issues such as fire hazard or liability);
- c. Relative importance of the action, in terms both of Common Area issues and general Association considerations;
- d. Impacts of the action (positive and negative), including –
 - On the requesting Owner's Lot;
 - On any particularly impacted Owner's Lot;
 - On the other Association Members' use and enjoyment of the Common Area;
 - On the value and attractiveness of the Common Area and of the subdivision, as a whole;
- e. Cost of the requested action to the Association, including impact upon the budget and the reserves of the Association;
- f. Contributions or offsets to the Association's costs being offered by any party in connection with the requested action.

3. Authorization. The Association will act to make a determination in timely fashion and will communicate its determinations in writing to the initiating Lot Owner and to any other Lot Owners participating in the process. The Association may, in its sole discretion, approve or disapprove any application.

F. Hazards to Persons or Property.

1. Authority. In the course of normal operations, the Association may observe or become aware of conditions within the subdivision which present hazards to persons or property. The Association has and may exercise its authority under statute and the Declaration to address such conditions, subject to the following provisions.

2. Adjacent Common Area. To the extent any conditions arise on or with respect to any portion of the Common Area adjacent to a Lot, the Association shall give written notice to the Lot Owner of the existence and nature of the condition, and of the Association's proposed course of action for addressing that condition. The Lot Owner shall have five (5) days in which to reply in writing to the proposed action. Where the issue involves the Lot Owner's permissive use of the Common Area, the Association will work with the Lot Owner to arrive at a mutually agreeable resolution of issues. The foregoing notwithstanding, where circumstances reasonably require immediate action, the Association retains the right to terminate such permissive use of the Common Area and to act unilaterally to timely reduce, remove, or correct the condition giving rise to the hazard. To the extent the hazardous condition was a product of a Lot Owner's permissive use, some or all of the costs of reducing, removing, or correcting the condition may be assessed to and recovered from the Lot Owner pursuant to the procedures provided in the "Enforcement Procedures".

3. Individual Lots. To the extent a hazardous condition exists on an individual Lot, the Association shall give written notice to the Lot Owner of the existence and nature of the condition, together with a request that the Lot Owner take appropriate remedial actions in timely fashion to address the condition. The Association will work with the Lot Owner to arrive at a mutually agreeable resolution of issues; provided, however, that the Association retains the right to invoke legal and administrative processes as appropriate to reduce, remove, or correct the condition giving rise to the hazard.

G. Third Party Access and Use

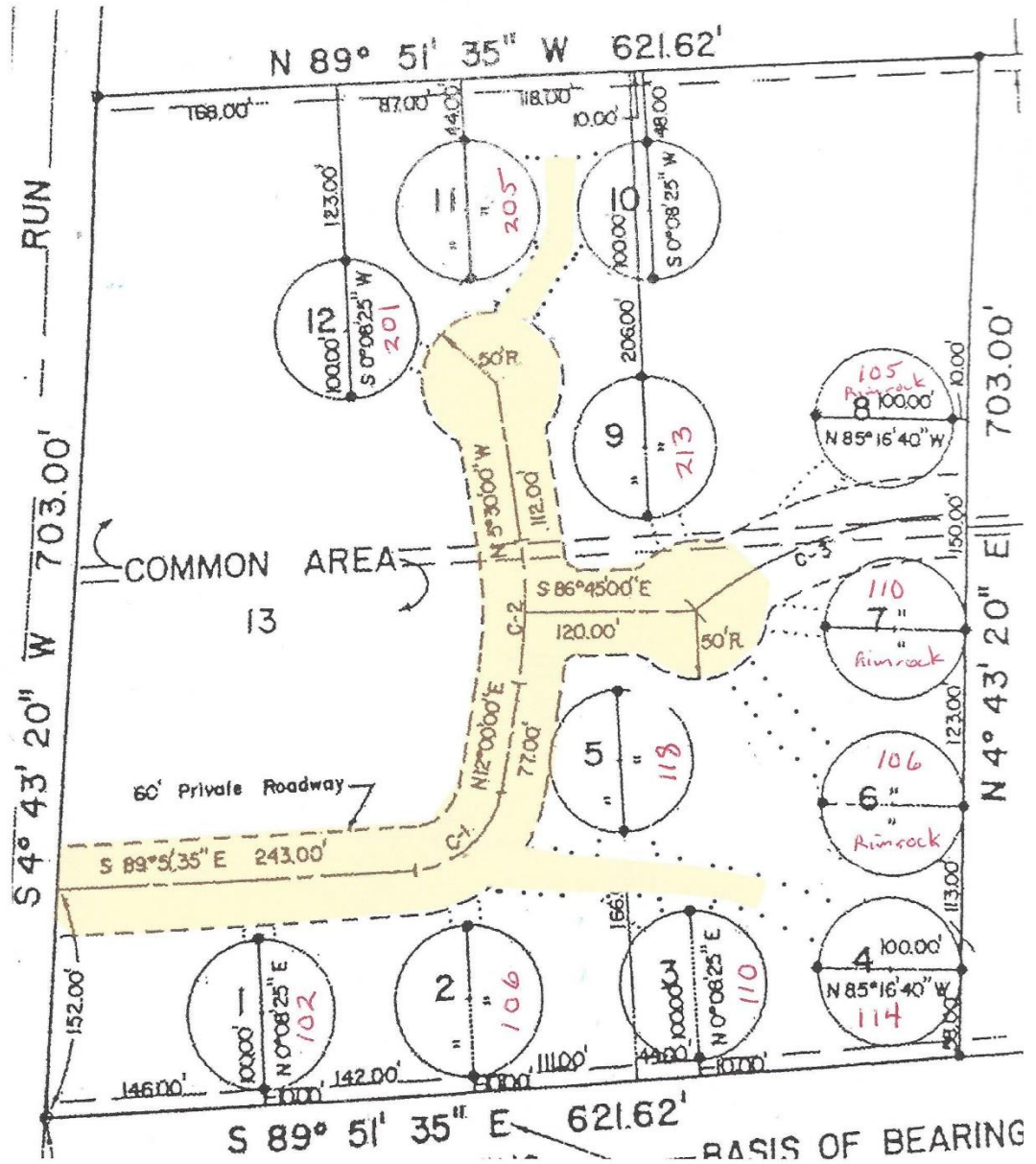
1. 'Right of Enjoyment.' The use of the Common Area is expressly limited to Owners (Art. I, §4). Owners may delegate their "right of enjoyment" of the Common Area only to family, tenants, and contract purchasers residing on the property (Art. II, §2). The general public has no right of access to or use of the Common Area.

2. Guests and Invitees. Lot Owners have a reasonable right to invite guests upon their property, which practicably entails use of the subdivision roads. As with use of any other part of the Common Area, such roadway use (a) is subject to the Association's Policies and Regulations, statutory and code requirements, the Declaration, and the Bylaws; and (b) is available only on a permissive use basis. Access by uninvited third parties is not authorized or permitted.

H. Other Applicable Policies and Regulations. Nothing in these "Common Area" Policies and Regulations shall be interpreted or deemed to alter, supplant, or diminish the applicability or effect of other Policies and Regulations, the Declaration, and their respective requirements, which may also be applicable to one or more circumstances addressed herein.

Adopted by the Board of Directors: August 18, 2023

Exhibit A: Southern Comfort Subdivision



Southern Comfort Homeowners Assoc. Plat map - Area in yellow is Subdivision Roadway