

SOMERSET ESTATES HOMEOWNERS ASSOCIATION

Maximizing Home Values, Quality of Life, Positioning as Premier Community

What's Up #74: June 3, 2022

SPECIAL EDITION - GOVERNING DOCUMENTS AND FENCE POLICY

Governing Documents Review

One of the major tasks of the Executive Board after SEHOA was formed in 2018 was to establish governing documents, all available on the website by [clicking here](#). In case of a conflict between documents, the document higher on the list below prevails.

Colorado Common Interest Community Act (CCIOA), the Colorado law that governs homeowners' associations and is amended occasionally by the state legislature.

Recorded Plats for the subdivision (and associated subdivision agreement with Boulder County) that show the lot lines, easements, roads, and common properties (outlots).

2018 Declaration, which requires a vote of >67% of all homeowners to amend.

Articles of Incorporation, which require a vote of >67% of all homeowners to amend.

Bylaws, which may be amended by the Executive Board.

Policies, Rules, and Regulations, which may be amended by the Executive Board. Nine policies are required by CCIOA. SEHOA has 10 policies, two rules and procedures, and the Architectural & Landscaping Standards.

The incorporation of SEHOA in 2018 was unusual in that we that we had to create many documents more than 20 years after the development of Somerset Estates. Once we started using the Declaration, Bylaws, and Policies, some questions about meaning and appropriateness naturally arose. At its April meeting, **the Board set as a goal for 2022 to review the documents that may be amended by the Board.**

As with any action taken by the Board, **homeowners are entitled to be informed and provide input.** What's Up is the primary communication tool used to announce upcoming Board meetings and agendas. Articles will be included before the Board takes action on proposed changes to the governing documents. The first such article below is about a proposed change to the Lot Easement Policy relating to fences. **Input may be sent to info@somersetstates-hoa.com or by attending the June 21 Board meeting.**

Lot Easement Policy Review - Fences

Miles of wood fencing was installed by the developer to define the boundaries of lots, roads, outlots, etc. Because of the split rail design that minimizes wind shear damage, even after 20+ years these fences are in decent condition and may last another 15-20 years. When replacement eventually becomes necessary, the capital cost will be significant, approximately \$30/linear foot in today's dollars. Location of fences includes these broad categories:

"Common Property Fencing" on outlots, such as near the ponds adjacent to the County open space.

"Somerset/Longview Fencing" along Somerset Dr and Longview Dr, typically connected to the corner street monuments.

"Lot Fencing" is all other fencing on a lot including perimeter fencing next to County open space, paths, or outlots, and fencing between lots.

The Declaration says that all improvements on common property are the responsibility of the Association. The Association also has the authority to use its funds for expenses for property maintained under an easement or right of way. Specifically, the Declaration says that the Association will maintain the easements and rights of way on either side of Somerset Dr and Longview Dr that it has historically maintained. **In general, all other improvements on lots**

are the responsibility of the homeowner. This would seem to include the “Lot Fencing”.

Because improvements were installed by the developer throughout the subdivision, including on easements on lots, the Board in 2020 sought to clarify the responsibility for these improvements, including the perimeter fencing, by adopting a Lot Easement Policy, available by [clicking here](#). Prior to the formation of SEHOA, **the position of the combined SHOA Board was to not maintain Lot Fencing.** The SEHOA Board concluded that all of the perimeter fencing next to County open space, paths, and outlots should be maintained by the Association with the primary reasons being that consistent maintenance and “look and feel” of the fencing were important attributes for the community as a whole. Complicating the matter is that some owners installed metal fencing rather than the developer-installed wood fencing, which was excluded from Association responsibility.

A recent review of all of the perimeter fencing shows that it is not as consistent as initially presumed. Besides the lots with metal fencing, **many lots have no fencing along the perimeter or pathways, some of the fencing is set back from the lot line, and some has been replaced or modified by the homeowner.** The majority of the Lot Fences are not on easements or rights of way nor is either side of the fence on Association property. The most straightforward reading of the Declaration is that these fences should be the responsibility of the homeowner. As such, the Board will be discussing at the June 21 meeting changing the language in the Lot Easement Policy to the following:

Proposed Revised Lot Easement Policy Paragraph:

"2. Fencing. The Association shall maintain the wood fencing on all common properties (the “Common Property Fencing”) and the fencing along Somerset Drive and Longview Drive, including at the west end of Longview Drive along the sidewalk on Outlot G to the Boulder County open space, (the “Somerset/Longview Fencing”), with the exception that Owners are responsible for keeping the fences on the border of his/her property clear of vegetation and repairing fences that are damaged by landscaping (vegetation, rocks, etc.), pets, children, guests or other agents under the Owner’s control. The Association has the right, in its sole discretion, to maintain (which includes, but is not limited to, staining, treating, and repairing), modify, remove and/or replace the Common Property Fencing and the Somerset/Longview Fencing. Any repairs to the Somerset/Longview Fencing done by an Owner must meet the same standards as repairs by the Association; as an alternative, the Association has the right, but not the obligation, to clear vegetation and repair fences that have been damaged by Owners and charge the associated

expenses to the Owner as a Specific Assessment. All other fences (whether fabricated from wood, metal or other materials) located on Lots (the "Lot Fencing"), such as fences between neighboring Owners' properties or on a single Lot (e.g., side and back fences, fences from the side border to the house, fences adjacent to the Boulder County open space, etc.) are the responsibility of the Owner(s). Owners shall maintain the Lot Fencing in accordance with the Architectural and Landscaping Standards, and may modify, remove or and/or replace the Lot Fencing, so long as any such modifications, removals or replacements are approved by the ACC in accordance with the Architectural and Landscaping Standards."

The financial implication of this proposed change is that approximately half of the fences the Association "claimed" in the current policy will again be the responsibility of homeowners on whose lot the fence sits. This amounts to about 8350 ft of fencing, which would cost around \$250,000 to replace in today's dollars, as well as \$1300/yr to insure (a duplicate cost since such structures are covered by homeowner policies) and approximately \$33,000 every seven years to stain and repair. Essentially no Association funds have been spent on Lot Fencing since 2020, so a change in policy is a reconsideration of future capital costs, not recent or near-term expected expenses. **Based on our Long-Range Planning reserves model, a special assessment would surely be needed for the Association to pay for all of the perimeter fencing replacement when it becomes necessary.** Should the Association decide to limit its obligation to only the fencing clearly included in the Declaration ("Common Property" and "Somerset/Longview"), a special assessment should not be required to replace this shorter length of fencing. For perspective, 32 lots have perimeter fencing that will be homeowner responsibility (36% of all lots). A similar number of lots have no perimeter fencing of any type and 30 lots have Somerset/Longview fencing.

The Board is seeking homeowner input on this policy. Comments may be sent to info@somersetstates-hoas.com and homeowners are invited to attend the Board meeting on June 21 at 6:30 PM.

Upcoming Events at a Glance

Please monitor the SEHOA website for any schedule changes
-somersetstates-hoa.com.

Executive Board Meeting -- June 21 at 6:30 PM. We are returning to meeting in the community room at the Mountain View Fire District station at 8500 Niwot

Rd. The room is on the south side of the station. Please check the website for the agenda.

Somerset Estates Book Club -- June 28 at 4 PM at the home of Kamla Chopra. The book is *Honor* by Thirty Umrigar. Please let Paula Hemenway know at p.hemenway@comcast.net if you want to be added to the Book Club distribution list.

Monday Mahjong -- Mondays at 3 PM. Contact Melissa Koller at mzkoller@gmail.com for more information.

Contact SEHOA

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