

CAUGHLIN RANCH HOMEOWNERS ASSOCIATION
POLICY FOR COMMON AREA ENCROACHMENTS

WHEREAS, Article V, Section 1 of the Caughlin Ranch Homeowners Association (Association) First Restated Bylaws states that "...all corporate powers shall be exercised by or under the authority of, and the business and affairs of the corporation shall be controlled by, the Board of Directors."

WHEREAS, Article V, Section 1 (third paragraph) of the Association's First Restated Bylaws grants the Board of Directors the authority "To conduct, manage and control the affairs and business of the corporation, and to make such rules and regulations not inconsistent with law, with the Articles of Incorporation or the Bylaws, as they may deem best."

WHEREAS, from time to time, the Association discovers private improvements encroaching into the common elements which were either inadvertent or intentionally constructed on the common elements;

WHEREAS, NRS 116.3102 grants the Association the power to:

1. Regulate the use, maintenance, repair, replacement and modification of common elements;
2. Cause additional improvements to be made as a part of the common elements.
3. Grant easements, leases, licenses and concessions through or over the common elements; and
4. Impose and receive any payments, fees or charges for the use, rental or operation of the common elements.

WHEREAS, Article 2(d) of the Association's Articles of Incorporation authorize the Association to own, construct, acquire, maintain and operate common elements and to adopt rules and regulations governing the use thereof.

WHEREAS, Article V.E. of the Association's Amended Declaration of Covenants, Conditions and Restrictions authorize the Association to:

1. Regulate the use, maintenance, repair, replacement and modification of common elements;
2. Cause additional improvements to be made as a part of the common elements.
3. Acquire, hold, encumber and convey real estate or personal property to the full extent allowed by NRS Chapter 116;
4. Grant easements, leases, licenses and concessions through or over the common elements; and
5. Impose and receive any payments, fees or charges for the use, rental or operation of the common elements.

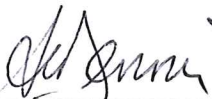
WHEREAS, NRS 116.3112 prohibits the Association from conveying portions of the common elements to owners without a majority vote of the homeowners.

NOW THEREFORE, BE IT RESOLVED THAT the following POLICY FOR COMMON AREA ENCROACHMENTS is adopted by the Association:

1. When the Association becomes aware of encroachments into the common elements because of affirmative actions taken by the lot owner such as improvements, modifications, or alterations, proposed or made in the common elements, or when the Association becomes aware of encroachments into the common elements because of other actions of the lot owner, the Association may send a Notice of Violation notifying the owner of the encroachment and will provide a copy of this policy to the owner. Nothing herein shall prohibit the Association from sending a Notice of Violation for an encroachment even when the lot owner does not take an affirmative action to encroach into the common elements. However, the Association will generally focus on encroachment claims into the common area which are created by affirmative actions of the lot owner.
2. The Association may research the encroachment and attempt to determine the history of the encroachment, including (collectively referred to as the “Factors”):
 - a. The extent and size of the encroachment;
 - b. When the encroachment was created;
 - c. Whether the encroachment was created by the owner, a previous owner, the developer or the Association;
 - d. The ease or difficulty of removing the encroachment;
 - e. Whether the improvements were constructed under circumstances in which a reasonable person would know they were encroaching into the common elements;
 - f. Whether the encroachment was constructed with the approval or acknowledgment of the Association; and
 - g. Other factors the Association deems relevant to its inquiry.
3. The Association will report its findings to the Board of the Association who will consider the Factors and determine, in its sole discretion, whether:
 - a. The Association will require the encroachment be removed and the common elements restored to its pre-encroachment condition;
 - b. A conveyance of the common elements may only be offered if a majority of homeowner vote is first obtained at the homeowner’s expense (“Conveyance”);
 - c. An easement, lease, license or other concession over the common elements will be granted (“Agreement”); or
 - d. Another option may be considered by the Board.
4. If the Board elects to offer a Conveyance or an Agreement based on the Factors, unless the Board determines otherwise:
 - a. The Owner will provide a survey showing all existing improvements encroaching into the common elements, the square footage of the encroachment and the area of the Conveyance or Agreement being requested (“Requested Area”), a legal description and graphical depiction of the Requested Area sufficient to use as a legal description.

- b. The Association will calculate the average square footage price of raw land sales prices in the last twenty-four months in that subdivision, or the nearest comparable subdivision in Caughlin Ranch to the Requested Area (“Raw Land Sales Price”).
 - c. The price of a Conveyance will be the Raw Land Sales Price multiplied by the square footage of the property being conveyed. An owner must obtain a majority vote of all of the homeowners using the method for obtaining such votes required by NRS Chapter 116 at the owner’s expense before the price is calculated.
 - d. The price of an easement will be the Raw Land Sales Price less a discount of 20%, multiplied by the square footage of the property subject to the easement.
 - e. The price of a lease, license or other concession will be determined by the Board using the Raw Land Sales Price as a guide discounted by a percentage determined by the Board based on the terms of the Agreement.
5. The terms of any Conveyance or Agreement must be approved by the Board. Unless the Board determines otherwise, the terms of any Agreement will:
- a. Require the owner to maintain the common elements within the Requested Area;
 - b. Prohibit construction of any new improvements in the Requested Area without the Association’s written approval;
 - c. Require the owner to maintain liability insurance against claims for personal injury, death or property damage arising in any manner from the use of the Requested Area, in an amount agreed upon by the Board , and provide a copy of the certificate of insurance to the Association;
 - d. Require the owner to defend and indemnify the Association from any claims arising out of the use, condition or maintenance of the Requested Area;
 - e. Require all other necessary terms to meet the Board’s approval; and,
 - f. Will be recorded if the Association and the owner agree to do so, and the Conveyance or Agreement is the type of document which is allowed to be recorded.

Adopted by the Caughlin Ranch Board of Directors at a duly noticed meeting on November 16, 2022, Amended at a duly noticed meeting on May 24, 2023, and further Amended at a duly noticed meeting on July 26, 2023.



Al Dennis, President



Drew Naccarato, Secretary