

## **BYLAWS**

### **BUTLER MOUNTAIN ESTATES PROPERTY OWNERS ASSOCIATION**

As Amended on December 4, 2012; December 4, 2013; December 15, 2019; April 24, 2022; September 17, 2022; November 4, 2023; and December 14, 2024

#### **ARTICLE I: GENERAL PROVISIONS.**

Section 1. Registered Name. The name of the corporation is BUTLER MOUNTAIN ESTATES PROPERTY OWNERS ASSOCIATION, INC.

Section 2. Principal Office. The principal office of the corporation shall be located, unless otherwise indicated, at the address of the current President as listed with the North Carolina Department of the Secretary of State. Meetings will be held at locations shown in notices of such meetings.

Section 3. Fiscal Year. The fiscal year of the Association begins on the 1st of January and ends on the 31st of December.

Section 4. Order of Priority. In the case of any conflict, the (1) provisions of state law, (2) the provisions of county law, (3) the Association's Restrictive Agreement (aka "Declaration"), (4) Articles of Incorporation, (5) these Bylaws, and (6) Robert's Rules of Order, shall prevail in that order.

#### **ARTICLE II: DEFINITIONS.**

Section 1: Terms. The following terms are used in these Bylaws and defined as follows:

- (a) "Board" means the Board of Directors of Butler Mountain Estates Property Owners Association, Inc.
- (b) "Association" means the Butler Mountain Estates Property Owners Association, Inc.
- (c) "Bylaws" means the Bylaws of the Association.
- (d) "Property" means all real property acquired by the Association whether from the developer or

otherwise, together and in each instance with all improvements that at any time may be constructed thereon, including but not restricted to, streets, roads, utilities, recreational and community facilities.

- (e) "Developer" means Elbert S. Brown, Sr.
- (f) "Declaration" means the Declaration of Restrictive Agreement Butler Mountain Estates, dated May, 1978, and recorded in the Office of the Register of Deeds for Buncombe County, North Carolina, in Deed Book 1194, page 440, plus amendments to same, and incorporated herein by reference.
- (g) "Development" means Butler Mountain Estates as the same may be shown on that certain plat of Butler Mountain Estates as recorded in the Office of the Register of Deeds for Buncombe County, North Carolina, in Plat Book 42, pages 189 and 190, and the revision of said plat as recorded in Plat Book 45, page 128, reference to same being hereby made for a more particular description as if set out herein in full.
- (h) "Improvement" means all buildings, outbuildings, streets, roads, driveways, parking areas, fences, walls (retaining and otherwise), hedges, poles, antennas, and any other structure of any other type or kind located in the development.
- (i) "Lot" means any numbered lot designated on plats of Butler Mountain Estates as the same may be recorded in the Office of the Register of Deeds for Buncombe County, North Carolina.
- (j) "Owner" means any person or legal entity who holds fee simple title or any interest whatsoever in any lot in the development.
- (k) "Plat" means the maps or plats of Butler Mountain Estates as they are from time to time recorded in the Office of the Register of Deeds for Buncombe County, North Carolina.
- (l) "Member" means those persons entitled to Membership as provided herein. A Member "in good standing" refers to a Member that is currently up to date in paying all assessments, charges or fees.

### **ARTICLE III: MEMBERSHIP.**

Section 1. Association Members. Membership shall consist of all owners of lots within the development known as Butler Mountain Estates and shall be entitled to one (1) vote for each lot owned. When more than one (1) owner holds an interest in any lot, all such owners shall be Members. The vote for such a lot shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any lot.

Section 2. Evidence of Membership in Transfer. Certificates of Membership in the Association may be issued to Members. Such certificates shall be in such form as the Board of Directors shall, from time to time, designate and shall be issued over the signature of the President or other Officer of the Association. Adequate records shall be maintained by the Association showing the names of the Members determined by ownership of each lot. When a Member ceases to be an owner, such person's Membership shall cease but such person shall remain liable for all Association charges incurred prior to the closing date of the property.

### **ARTICLE IV: MEMBER MEETINGS.**

Section 1. Notice of Meetings. Written notice of all meetings of the Members shall be given by the Secretary by sending a copy of such notice to each Member entitled to vote thereat, addressed to the Member's last electronic or mail address appearing on the books of the Association, or supplied by such Member to the Association for the purpose of notice. Unless otherwise apprised by a Member, email shall be the primary notification method. Members are obligated to keep the Secretary supplied with their current email address and postal address. Meeting notice shall specify the location, day, date, time, and purpose of the meeting.

Section 2. Robert's Rules. For the conduct of the meetings of the Association, Robert's Rules of Order shall be adopted. For procedural questions upon which no rules have been adopted and Robert's Rules is silent, the ruling of the presiding Board shall be final;

Section 3. Eligibility to Vote. All Members must be current and in good standing with the Association to be eligible to vote, hold elective or appointive office, and/or serve on committees as

may be established.

Section 4. Quorum. One-fourth (1/4) of the eligible votes of the Association shall be present, either in person or by proxy, to constitute a quorum. A quorum must be present for a vote of the Membership to be valid.

Section 5. Proxies. At all meetings of Members, each Member may vote in person or by proxy. All proxies shall be in writing and filed with the Secretary within forty-eight (48) hours in advance of the meeting. Each proxy shall be revocable and shall automatically cease upon conveyance by the Member of his lot. A proxy may cover the following:

- One vote taken at a specific meeting
- Multiple votes taken at a specific meeting
- All votes taken at a specific meeting
- All votes taken at all meetings within a specific calendar year

All proxies expire at the end of the calendar year on December 31<sup>st</sup>.

Section 6. Annual Meeting. The Association's annual meeting of the Members shall be held each year at such place and time as the Board of Directors may designate and may be held in-person or using generally available technological means (e.g., virtual platforms). The purpose of the annual meeting shall be for electing a Board of Directors, presenting and approving the next fiscal year's budget, presenting and approving the next fiscal year's lot assessment fee, updating the Members on previous and future community plans, making decisions regarding the Association, and for any other significant Association affairs.

At least thirty (30) days prior to the annual meeting of Members, the Board shall provide the following to all Members:

- (a) location, day, date and time of meeting;
- (b) the Board's planned meeting agenda, with indication of matters expected to be voted upon;
- (c) Board's proposed budget for the year ahead;
- (d) proposed per-lot assessment amount for the year ahead;
- (e) reminder of proxy procedure;

- (f) request for Member additions to agenda items.

Section 7. Special Meetings. Special meetings of the Association Members may be called at any time by the President, the Board of Directors or upon written request of at least one-fourth (¼) of the Members in good standing of the Association. The purpose of the meeting shall be stated in the call to the meeting and written notice shall be given at least twenty-one (21) days prior to the meeting, covering the following:

- (a) location, day, date and time of meeting;
- (b) the planned meeting agenda, with indication of matters expected to be voted upon;
- (c) reminder of proxy procedure.

## **ARTICLE V. BOARD OF DIRECTORS.**

Section 1. Number. The affairs of the Association shall be managed by a Board of Directors of not less than five (5) and not more than nine (9) in number, who shall be Members in good standing of the Association.

Section 2. Term of Office. Board Members will serve staggered three (3) year terms.

Section 3. Election. Election of the Board of Directors shall be by secret written ballot. For such elections, the Members or their proxies may cast, in respect to each vacancy, as many votes as they are entitled to exercise under the provisions of the Declaration. The person receiving the largest number of votes shall be elected. Cumulative voting is not permitted.

Section 4. Resignation. A Director may resign at any time by giving written notice to the Board of Directors and the resignation shall take effect upon receipt of said notice, unless stated otherwise.

Section 5. Removal. Any Director may be removed from the Board, with or without cause, by majority vote of the Members of the Association.

Section 6. Vacancies. The Board may fill vacancies among its ranks for the unexpired portion of any term. In the event of a vacancy, a successor shall be selected by the remaining Members of the

Board and shall serve for the balance of the term of the predecessor. The vacating Board Member is responsible to train and convey appropriate information and responsibilities, including but not limited to transferring appropriate keys, files, documents, passwords, vendor relationships, any other pertinent information, and POA property, to the new Board Member.

Section 7. Compensation. No Director shall receive compensation for any service rendered to the Association. However, a Director may be reimbursed for actual expenses incurred in the performance of Board duties.

#### **ARTICLE VI: POWERS AND DUTIES OF THE BOARD OF DIRECTORS.**

The Board of Directors shall have all the powers and rights necessary to administer the Association's affairs and carry out its duties to perform the Association's responsibilities and to exercise its rights as set forth in these Bylaws, the Declaration and the Articles provided that such rights and powers are not inconsistent with the provisions of state or county law.

Section 1. Powers. In particular, but not limited to, the Board of Directors has the power to:

- (a) Manage and control the affairs of the Association while limiting expenditures and obligations to funds approved in the Member-approved budget, except bona fide emergencies and unforeseen price increases for recurring vendor services;
- (b) Adopt a corporate seal as the seal of the Association;
- (c) Designate a banking institution or institution as a depository for the Association's funds; designate the officer or officers authorized to make withdrawals therefrom and execute obligations on behalf of the Association;
- (d) Borrow money for the Association's purposes, provided the Membership by majority vote of all Members in good standing of the Association has authorized the specific purpose and amount of money to be borrowed;
- (e) Adopt such rules and regulations relating to the use of property within the Association, within the scope of the Restrictive Agreement, and sanctions for non-compliance therewith as it may deem

reasonably necessary for the best interest of the Association and its Members;

- (f) Employ sufficient managers, attorneys, independent contractors or other such employees as the Board may deem necessary to adequately perform the responsibilities of the Association;
- (g) Select officers of the Association, establish committees of the Association and appoint the Members thereof. Assign to such committees such responsibilities and duties not inconsistent with the provisions of these Bylaws or with law as it may deem appropriate;
- (h) Determine whether to suspend a Member's voting rights if a Member is in default of any assessment, charge or fee payment due and owing to the Association;
- (i) Consistent with provisions of statute, the Board may impose reasonable charges for late payment of assessments (see section on Assessments).

Section 2. Duties. It shall be the duty of the Board of Directors to:

- (a) Cause to be kept a complete record of all its acts and corporate affairs and to present a statement thereof to the Members when such records are requested in writing by Members who are entitled to vote;
- (b) Ensure that the correct plat is on file in the Office of the Register of Deeds;
- (c) Supervise all officers, agents, employees, committees, and volunteers of the Association to ensure proper and ethical performance of assigned duties;
- (d) As more fully provided in the Declaration, to:
  - (i) Charge Members the annual lot assessment amount;
  - (ii) Send written notice of each lot assessment to every property owner subject thereto at least thirty (30) days in advance of each annual assessment due date as stated in Article IV, Section 1;
  - (iii) Enforce the penalties against any lot for which assessments are not paid within thirty (30) days after due date or to bring an action at law against the owner personally obligated to pay the same;
- (e) Issue, or cause the appropriate officer to issue, upon demand by any person, a written

communication setting forth whether or not the assessment has been paid. If the communication states an assessment has been paid, such communication shall be conclusive evidence of such payment;

- (f) Cause all employees or contractors to have adequate insurance, e.g., for a minimum of one million dollars (\$1,000,000.00);
- (g) Maintain adequate liability and hazard insurance on all common areas owned or managed by the Association and Directors & Officers insurance for the Board of Directors;
- (h) Indemnify a past or present Director, officer or committee Member of the Association to the extent such indemnity is required or permitted by state law, the Articles, the Declaration or these Bylaws;
- (i) Cause the Common Areas owned by Butler Mountain Estates to be maintained; Common Areas maintenance applies to, but is not limited to, roadways, road signs, roadside vegetation, snow removal, leaf removal, culverts, other drainage channels, the gate and gate infrastructure.
- (j) Cause the exterior of dwellings to be maintained and to otherwise enforce the Declaration, including but not limited to, the approval of plans for the construction of driveways, buildings, fences, walls, and other structures to be erected upon any property located within Butler Mountain Estates.
- (k) Bring to the Association Membership, for approval by majority vote via standard notification as described in Article IV, any expenditure that exceeds either \$100 dollars or 10% of that year's budgeted amount, whichever is greater.

#### **ARTICLE VII. MEETINGS OF THE BOARD OF DIRECTORS.**

Section 1. Attendance. Any or all Board Members may attend any meeting of the Board in person, by video conference, or by conference call, or other generally available technological means.

Section 2. Quorum. A majority of all Directors of the Board shall constitute a quorum in order to hold a meeting.



Section 3. Robert's Rules. The Board of Director meetings will be guided by Robert's Rules of Order.

Section 4. Board Member Voting. Each Director present shall have one vote regardless of the number of lots owned by the Director.

Section 5. Action of the Board. An act of the Board of Directors shall be valid, if the required quorum is present at the time of the vote, unless otherwise required by law. A vote of the majority of all Directors of the Board shall be deemed to be an act of the Board.

Section 6. Minutes. Board-approved minutes of the proceedings shall be emailed to Members no later than fifteen business days after any type of Board meeting (e.g., regular, Special or Emergency).

Section 7. Regular Meetings. A regular meeting of the Board shall be held at least quarterly.

Section 8. Special Meetings. Special meetings of the Board may be called by the President or upon the written request of the majority of all of the Members of the Board of Directors. The purpose of the meeting shall be stated in the call and at least three days, preferably one week, written notice shall be given.

Section 9. Emergency Meetings. If an emergency arises and the Board does not have time to organize a Special meeting in a place or in a manner outlined above, if possible by majority vote of the entire sitting Board, the meeting may be held using email or via generally available technological means. Any discussions, motions or votes taken during an email meeting shall be considered valid and official and require a simple majority of all sitting Directors for passage. Minutes of the proceedings shall be emailed to POA Members as with regular and special meetings.

## **ARTICLE VIII: OFFICERS AND THEIR DUTIES.**

Section 1. Officers. The officers of the Association shall be a President, Vice President,

Secretary, and Treasurer, who shall at all times be Members of the Board of Directors. Any two offices may be held by the same person, except the following: (1) the offices of President and Secretary must be held by separate Board Members, and (2) the offices of President and Treasurer must be held by separate Board Members.

Section 2. Election of Officers. The election of officers shall take place at the first meeting of the Board of Directors no later than two weeks following each annual meeting of Members.

Section 3. Term of Office. The officers of the Association shall be elected annually by the Board and each shall hold office for one (1) year unless an officer shall sooner resign, be removed, die or otherwise be disqualified to serve or until their successor is elected. Officers shall assume their duties starting at the meeting at which they are elected. No officer shall serve more than two (2) consecutive three (3) year terms (i.e., six years total) in the same office unless running unopposed. When more than one candidate is running for a position, an officer may run for election for their previous office after being out of the office for one year or longer.

Section 4. Resignation or Removal of Officers. Any officer may be removed from office with or without cause by a majority of all sitting Board Members. Any officer may resign at any time by giving written notice to the Board, the President or the Secretary. A resignation shall take effect on the date of receipt of such notice or at any later time specified therein, and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

Section 5. Vacancies of Officers. The Board may fill vacancies among its officers for the unexpired portion of any term. If an officer resigns, is removed, or a successor has been elected or appointed, the incumbent officer is responsible to train and convey appropriate information and responsibilities, including but not limited to transferring appropriate keys, files, documents, passwords, vendor relationships, any other pertinent information, and POA property, to the new officer.

Section 6. Duties. The duties of the officers are as follows:

(a) President – The President shall preside at all meetings of the Members and of the Board of

Directors; see that the orders, and resolutions of the Board are carried out; and shall sign all leases, mortgages, deeds, and other contracts and agreements; update the North Carolina Department of the Secretary of State with all relevant information, including the address of the current President; and shall perform such other duties as required by the Board; Vice President – The Vice President shall act in place and stead of the President in the event of the President's absence, inability or refusal to act; develop Board meeting agendas based on input from the Board's officers; and shall exercise and discharge such other duties as may be required by the Board;

- (b) Secretary – The Secretary shall record the votes, keep the minutes of all meetings and proceedings of the Board and of the Members; keep the corporate seal of the Association and affix it on all papers requiring the seal; serve notice of the meetings of the Board and of the Members; keep appropriate current records showing the Members of the Association entitled to vote with their addresses and contact information; and shall perform such other duties as required by the Board;
- (c) Treasurer – The Treasurer shall receive and deposit in appropriate bank accounts all monies of the Association and shall disperse such funds as directed by resolution of the Board of Directors; maintain all financial online accounts per the policies established by the Board ; sign all checks and promissory notes of the Association; and prepare an annual budget and statement of income and expenditures to be presented to the Membership at its Annual meeting . At each regular meeting of the Board, but no more often than monthly, the Treasurer shall report all income and expenditures since the prior similar report and will provide current account and investment balances and shall perform such other duties as required by the Board.

#### **ARTICLE IX: COMMITTEES.**

The Board of Directors shall appoint any committee it deems necessary to help carry out its duties and functions. Committees will serve at the discretion and under the authority of the Board of Directors. Each committee shall have a formal Charter approved by majority vote of the Board. The Charter shall state the committee's purpose, membership, operations, authority, length of existence, and reporting relationships. At a minimum, the Board will establish and manage a Road Committee

and an Architectural Review Committee on an ongoing basis.

#### **ARTICLE X: ASSOCIATION RECORDS.**

Any Member in good standing can request access to the books, records, papers, and electronic files of the Association at reasonable times by contacting the Board.

#### **ARTICLE XI: ASSESSMENTS.**

Section 1. Assessments and Fines. As more fully provided in the Declaration, each Member is obligated to pay the Association annual and special assessments which are secured by a continuing lien upon the real property against which the assessment is made. Any assessments which are not paid when due, shall be delinquent. If the assessment is not paid within thirty (30) days after the due date, the Board may levy additional penalties of up to the maximum allowed by law but not more than twenty five percent (25%) of any assessment unpaid every thirty (30) days that the lot assessment remains unpaid. Further, the Association may bring an action at law against the owner personally obligated to pay the same or foreclose the lien against the property, and interest, costs and reasonable attorney fees of any such action shall be added to the amount of the assessment. No owner may waive or escape liability for the assessment provided for herein by abandonment of his lot.

Section 2. Penalties. The conveyance of any lot shall not affect any lien for assessment provided herein. Such lien, upon the filing of same with the Clerk of Superior Court of Buncombe County, North Carolina, shall be superior to all other liens recorded subsequent to said notice of assessment. The lien provided for herein shall be foreclosed by suit by the Association in like manner as a mortgage, and in such event, the Association may be a bidder at the foreclosure sale. The Association may also pursue any other remedy against any owner owing money to it available to it by law or equity for the collection of debt. The Association shall not be required to transfer Membership

on its books or to allow the exercise of any right or privileges of Membership on account thereof to any owner or any person claiming under them unless or until all assessments and charges to which they are subject have been paid in full.

#### **ARTICLE XII: CORPORATE SEAL.**

The Association shall have a seal in circular form having within its circumference the words "Butler Mountain Estates Property Owners Association, Inc."

#### **ARTICLE XIII: AMENDMENTS.**

Section 1. Amendments. Amendments to these Bylaws may be proposed by the Board or Members of the Association in good standing in a Special or Annual meeting. These Bylaws may be amended by a vote of a majority of a quorum of Members in good standing present in person or by proxy. Once approved, Amendments to these Bylaws are effective immediately.

Section 2. Amended Bylaws. These amended Bylaws replace all previous versions, whether dated or undated. Date approved by the Membership and in effect: November 4, 2023

Scott Babcock, President BMEPOA Board of Directors