
BYLAWS
OF
THE BERTHOUD ESTATES COMMUNITY ASSOCIATION

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BYLAWS
OF
THE BERTHOUD ESTATES COMMUNITY ASSOCIATION

ARTICLE ONE: OBJECT

1.1 Association • THE BERTHOUD ESTATES COMMUNITY ASSOCIATION is a non-profit corporation, organized under the Colorado Non-profit Corporation Act. with its principal office at 410 Main Street, Longmont, Colorado 80501, Attn.: Les Coyle.

1.2 Purpose • The purpose for which the Association is formed is to govern the Sewer System situated in the County of Larimer, State of Colorado, which services the community known as the BERTHOUD ESTATES SUBDIVISION, hereinafter known as "The Properties," which property is subject to the provisions of the DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS OF THE BERTHOUD ESTATES COMMUNITY ASSOCIATION, recorded on Film as Reception No. of the Larimer County records, hereinafter referred to as the "Declaration."

1.3 Definitions • Terms used herein shall have the meanings specified for such terms in the Declaration.

1.4 Applicability • All present or future owners of Improved Lots within The Properties, tenants, or any other person that might use in any manner The Properties are subject to the Declaration. The acquisition or rental of any of the Dwelling Units or the occupancy of any of said Dwelling Units will signify that the Declaration and these Bylaws are accepted, ratified and will be complied with.

ARTICLE TWO: MEMBERSHIP AND VOTING RIGHTS

2.1 Membership • Every person or entity who is a record Owner of a fee interest in any Improved Lot (as defined in the Declaration) which is subject by covenants of record to assessment by the Association shall be a Member of the Association, including the Declarant (as defined in the Declaration) so long as it is an Owner and contract sellers; provided that any such person or entity who holds such interest merely as a security for the performance of an obligation shall not be a Member.

Membership shall be appurtenant to and may not be separated from ownership of any Improved Lot which is subject to assessment by the Association. Ownership of such Lot shall be the sole qualification for such membership. Where more than one person holds interest in such Lot, all such persons shall be Members.

Membership shall at all times be identified with the Owner of the Improved Lot and shall not be subject to the approval of the Board of Directors or other Members.

2.2 Voting Rights • Voting rights are restricted to property with improvements only.

The Association shall have two classes of voting membership:

Class A • Class A Members shall be all Owners of Improved Lots, with the exception of the Declarant, and shall be entitled to one vote for each Improved Lot owned.

The vote for such Improved Lot, the ownership of which is held by more than one Owner, may be exercised by any one of them, unless an objection or protest by any other holder of an interest in such Lot is made prior to the completion of the vote, in which case the vote for such Lot shall be exercised, as the persons holding such interest shall determine between themselves. Should the joint owners of such Lot be unable, within a reasonable time, to agree upon how they will vote any issue, they shall be passed over and their right to vote on such issue shall be lost. In no event shall more than one vote be cast with respect to any such Lot.

Class B • Class B Members shall be the Declarant who shall be entitled to three (3) votes for each Improved Lot owned. Class B Membership may be converted to Class A Membership at the option of the Declarant by its written notice to the Secretary of the Association, but in any event shall be converted to Class A Membership without further act or deed not later than when fifty-one percent (51%) of the lots within The Properties have been conveyed to Purchasers other than the Declarant and have become an Improved Lot as defined by Paragraph 1.11 of the Declaration, or five (5) years following the recording of the Declaration, whichever shall first occur.

No expulsion of Members or cancellation of voting rights shall be permitted.

ARTICLE THREE: MEETINGS OF THE MEMBERS

3.1 Place of Meeting • Meetings of the Association shall be held at such place within the County of Larimer, State of Colorado as the Board of Directors may determine.

3.2 Annual Meetings • The first Annual Meeting of the Members shall be held within one year from the date of incorporation of the Association, and each subsequent regular Annual Meeting of the members shall be held on the same day of the same month of each year thereafter, at the hour of 7:00 P.M., provided, however, the date of the first Annual Meeting after the conversion of the Class B Membership to Class A Membership in accordance with Paragraph 2.2 hereof may be set by the Board of Directors and the Annual Meeting shall take place on the same day of the same month thereafter at the hour of 7.00. If the day for the annual meeting of the members is a legal holiday, the meeting will be held at the same hour on the first day following which is not a legal holiday.

At such meetings, the members may transact business of the Association as may properly come before the meeting.

3.3 Special Meetings • Special meetings of the Members may be called at any time by the President or by the Board of Directors, or upon written request of the Members who are entitled to vote one-fourth (1/4) of all the votes of the Class A Membership.

3.4 Notice of Meetings • Written notice of each meeting of the Members shall be given by, or at the direction of, the secretary or person authorized to call the meeting, by hand delivery or mailing a copy of such notice, postage prepaid, or a combination thereof, at least fifteen (15) days before such meeting to each Member entitled to vote thereat, addressed to the Member's address last appearing on the books of the Association, or supplied by such Member to the Association for the purpose of notice. Such notice shall specify the place, day and hour of the meeting, and, in the case of a special meeting, the purpose of the meeting.

3.5 Quorum • The presence at the meeting of Members entitled to cast, or of proxies entitled to cast, twenty percent (20%) of the votes of each class of membership shall constitute a quorum for any action and an affirmative vote of a majority of the votes present at which a quorum is in attendance in person or by proxies shall be necessary to transact business and to adopt decisions binding on all Members, except as otherwise provided in the Articles of Incorporation, the Declaration, or these Bylaws. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and that required quorum at the subsequent meeting shall be one-half of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

3.6 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. Every proxy shall be revocable and shall automatically cease upon conveyance by the member of his Lot. No proxy shall extend beyond a period of eleven (11) months.

ARTICLE FOUR: BOARD OF DIRECTORS

4.1 Number • Initially, three (3) Directors shall be selected by the Declarant acting in its sole discretion, who shall serve at the pleasure of the Declarant until the conversion of the Class B Membership to Class A Membership in accordance with Paragraph 2.2 hereof. The Directors selected by the Declarant need not be Members of the Association. The names of the initial Directors selected by the Declarant are set forth in the Articles of Incorporation.

Not later than the time of the conversion of the Class B Membership to Class A Membership, in accordance with Paragraph 2.2 hereof, the Board of Directors shall call a Special Meeting of the Membership to be held at which the Members shall elect five (5) Directors who must be Members of the Association to serve until the next Annual Meeting of the Association. Upon such election, the Directors selected by the Declarant shall submit their resignations.

At the first Annual Meeting of the Membership after the conversion of Class B Membership and at each Annual Meeting of the Membership thereafter, Directors shall be elected from the Membership.

4.2 Term of Office • The initial terms of the Directors shall be fixed at the time of their election as they among themselves shall determine. Initially the term of one Director shall be fixed at one (1) year, the term of two Directors shall be fixed at two (2) years and the term of two Directors shall be fixed at three (3) years. At the expiration of the initial term of office of each respective Member of the Board of Directors a successor shall be elected to serve for a term of three (3) years. The Members of the Board of Directors shall hold office until their respective successors shall be elected by the Association.

4.3 Nomination • Nomination for election to the Board of Directors shall be made by a Nominating Committee. Nominations may also be made from the floor at the Annual Meeting. The Nominating Committee shall consist of a Chairman, who shall be a member of the Board of Directors, and two or more members of the Association. The Nominating Committee shall be appointed by the Board of Directors prior to each Annual Meeting of the members, to serve from the close of such Annual Meeting until the close of the next Annual Meeting and such appointment shall be announced at each Annual Meeting. The Nominating Committee shall make as many nominations for election to the Board of Directors as it shall in its discretion determine, but not less than the number of vacancies that are to be filled. Such nominations may only be made from among the Members.

4.4 Election • Election to the Board of Directors shall be by secret written ballot. At such election 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 persons receiving the largest number of votes shall be elected. Cumulative voting is not permitted.

4.5 Removal • Any director may be removed from the Board, with or without cause, by a majority vote of the members of the Association. In the event of death, resignation or removal of a director, his successor shall be selected by the remaining members of the Board and shall serve for the unexpired term of his predecessor.

4.6 Compensation • No director shall receive compensation for any service he may render to the Association. However, any director may be reimbursed for his actual expenses incurred in the performance of his duties.

ARTICLE FIVE: MEETINGS OF DIRECTORS

5.1 Regular Meetings • Regular meetings of the Board of Directors shall be held monthly without notice, at such place and hour as may be fixed from time to time by resolution of the Board. Should said meeting fall upon a legal holiday, then that meeting shall be held at the same time on the next day which is not a legal holiday.

5.2 Special Meetings • Special meetings of the Board of Directors shall be held when called by the president of the Association, or by any two directors, after not less than three (3) days notice to each director.

5.3 Quorum • A majority of the number of directors shall constitute a quorum for the transaction of business. Every act or decision done or made by a majority of the directors present at a duly held meeting at which a quorum is present shall be regarded as the act of the Board.

5.4 Action Taken Without a Meeting • The directors shall have the right to take any action in the absence of a meeting which they could take at a meeting by obtaining the written approval of all the directors. Any action so approved shall have the same effect as though taken at a meeting of the directors.

ARTICLE SIX: POWERS AND DUTIES OF THE BOARD OF DIRECTORS

6.1 Powers • The Board of Directors shall have power to:

a) administer and enforce the covenants, conditions, restrictions, easements, uses, limitations, obligations and all other provisions set forth in the Declaration;

b) establish, make and enforce compliance with such reasonable Rules and Regulations as may be necessary to govern the use of the Sewer System and facilities, and to establish penalties for the infraction thereof with the right to amend the same from time to time.

c) exercise for the Association all powers, duties and authority vested in or delegated to the Association and not reserved to the membership by other provisions of these Bylaws, the Articles of Incorporation, or the Declaration;

d) Declare the office of a member of the Board of Directors to be vacant in the event such Member shall be absent from three (3) consecutive regular meetings of the Board of Directors; and

e) hire and terminate a managing agent or such other employees as they deem necessary, and to prescribe their duties. All of the powers and duties granted to the Board hereunder may be delegated to a managing agent; provided however that such delegation shall not relieve the Board of any responsibility therefore.

f) suspend the voting rights during any period in which such Member shall be in default in the payment of any assessment levied by the Association. Such rights may also be suspended after notice and hearing, for a period not to exceed sixty (60) days for infraction of published Rules and Regulations.

6.2 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 therefore to the Members at the Annual Meeting of the Members, or at any special meeting when such statement is requested in writing by one-fourth (1/4) of the Class A Members who are entitled to vote;

b) supervise all officers, agents and employees of this Association, and to see that their duties are properly performed;

c) as more fully provided in the Declaration, to:

1. establish the amount of the Sewer Assessment to be paid by each Owner in accordance with the Declaration;

2. fix the amount of the Individual Assessments and establish Fines, all in accordance with the Declaration;

3. foreclose the lien against any Lot for which assessments are not paid within ninety (90) days after such assessment's due date or bring an action at law against the Owner personally obligated to pay the same.

d) Collect all assessments as levied by the Board of Directors from the Lot Owners as are authorized in the Declaration. From the assessments collected, provide for the maintenance, repair and replacement of the Sewer System, maintain all policies of insurance and provide for such other expenses together with the establishment of necessary reserves, as are required by the Declaration.

e) fix a delinquent interest rate for delinquent assessments in accordance with the Declaration, as the Board, in its discretion, may determine and uniformly apply;

f) procure and maintain adequate liability and casualty insurance on insurable improvements in the Sewer System owned by the Association, and such other insurance policies as the Board deems necessary or advisable;

g) keep in good order, condition and repair all of the Sewer System;

h) institute, defend, or intervene in litigation or administrative proceedings in its own name on behalf of itself or an Owner on matters affecting the Sewer System;

i) enjoin or seek damages from, or assess Fines and Individual Assessments against an Owner for violation of the provisions of the Declaration, the Bylaws, the Articles or the Rules and Regulations of the Association as more fully provided for in the Declaration;

j) furnish upon demand and for a reasonable charge, a Certificate to an Owner or his First Mortgagee signed by an officer of the Association setting forth whether the assessments on a specified Lot have been paid. A properly executed Certificate of the Association as to the status of the assessments on a Unit is binding on the Association as of the date of its issuance.

k) cause all officers or employees having fiscal responsibilities to be bonded, in accordance with the Declaration;

l) exercise any other powers conferred by the Declaration, Articles or Bylaws;

m) grant easements and licenses through or over the Sewer System Property;

n) make contracts and incur liabilities;

o) borrow money, providing such security as is necessary, providing that such borrowing has the prior written approval of two-thirds (2/3) of each class of Members;

p) exercise all other powers necessary for the proper governing and operation of the Association.

ARTICLE SEVEN: OFFICERS AND THEIR DUTIES

7.1 Enumeration of Officers • The officers of this Association shall be a president and vice-president, who shall at all times be members of the Board of Directors, a secretary, and a treasurer, and such other officers as the Board may from time to time by resolution create.

7.2 Election of Officers • The election of officers shall take place at the first meeting of the Board of Directors following each annual meeting of the members.

7.3 Term • The officers of this Association shall be elected annually by the Board and each shall hold office for one (1) year unless he shall sooner resign, or shall be removed, or otherwise disqualified to serve.

7.4 Special Appointments • The Board may elect such other officers as the affairs of the Association may require, each of whom shall hold office for such period, have such authority, and perform such duties as the Board may, from time to time, determine.

7.5 Resignation and Removal • Any officer may be removed from office with or without cause by the Board. Any officer may resign at any time giving written notice to the Board, the president or the secretary. Such 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.

7.6 Vacancies • A vacancy in any office may be filled by appointment by the Board. The officer appointed to such vacancy shall serve for the remainder of the term of the officer he replaces.

7.7 Multiple Offices • The offices of secretary and treasurer may be held by the same person. No person shall simultaneously hold more than one of any of the other offices except in the case of special offices created pursuant to Section 7.4 of this Article.

7.8 Duties • The duties of the officers are as follows:

a) President • The president shall preside at all meetings of the Board of Directors and the meetings of the Membership; shall see that orders and resolutions of the Board are carried out; shall sign all leases, mortgages, deeds and other written instruments.

b) Vice President • The vice-president shall act in the place and stead of the president in the event of his absence, inability or refusal to act, and shall exercise and discharge such other duties as may be required of him by the Board.

c) Secretary • The secretary shall record the votes and 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 said seal; serve notice of meetings of the Board and of the members; keep appropriate current records showing the members of the Association together with their addresses, and shall perform such other duties as required by the Board.

d) Treasurer • The treasurer shall receive and deposit in appropriate bank accounts all monies of the Association and shall disburse such funds as directed by resolution of the Board of Directors; shall sign all checks and promissory notes of the Association; keep proper books of account; cause an annual audit of the Association books to be made by a public accountant at the completion of each fiscal year if so directed by the Board of Directors; and shall prepare an annual budget and a statement of income and expenditures to be presented to the membership at its regular annual meeting, and deliver a copy of each to the members.

ARTICLE EIGHT: COMMITTEES

The Association shall appoint a Nominating Committee, as provided in these Bylaws. In addition, the Board of Directors shall appoint other committees as deemed appropriate in carrying out its purposes.

ARTICLE NINE: INSPECTION OF RECORDS/AUDIT

The Association shall make available to Owners and their First Mortgagees (as defined by the Declaration), current copies of the Declaration, Articles of Incorporation, Bylaws and other Rules and Regulations governing the Sewer System and the books, records and financial statements of the Association. "Available" means available for inspection upon request during normal business hours or other reasonable circumstances at the principal offices of the Association where copies may be purchased at cost.

Upon ten days' notice to the Association, and upon payment of a reasonable fee, any Owner shall be furnished a statement of his accounting, setting forth the amount of any unpaid assessments or other charges due and owing from such Owner and/or an estoppel certificate.

Any First Mortgagee shall be entitled, upon written request, to an audited Financial Statement for the immediately preceding fiscal year, free of charge, to the party so requesting. Any Financial Statements so requested shall be furnished with a reasonable time following such request.

The Association shall also be required to make available to prospective purchasers current copies of the Declaration, Bylaws, Articles of Incorporation, and other Rules and Regulations governing the Properties and the most recent annual audited financial statement, if such is prepared.

ARTICLE TEN: AMENDMENTS

These Bylaws may be amended, at a regular or special meeting of the Members, by a vote of a majority of a quorum of Members present in person or by proxy; except that until the Class B Membership has been converted to Class A Membership in accordance with Paragraph 2.2 hereof, the Federal Housing Administration or the Veterans Administration shall have the right to veto amendments.

Any material amendment to these Bylaws must have the approval of the First Mortgagees in accordance with Paragraphs 9.3 and 10.2 of the Declaration.

If The Properties have been or are to receive Veterans Administration and/or Federal Housing Administration approval as defined in the Declaration, then until the Class B Membership has been converted to Class A Membership in accordance with Paragraph 2.2 hereof, the Federal Housing Administration and the Veterans Administration shall have the right to veto amendments.

ARTICLE ELEVEN: ASSESSMENTS

As more fully provided in the Declaration, each member is obligated to pay to the Association certain assessments which is a personal obligation of such Member and is secured by a continuing lien upon the 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 assessment shall bear interest from the date of delinquency at a rate fixed by the Board of Directors and uniformly applied not to exceed ten percent (10%) per annum.

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's fees of any such action shall be added to the amount of such assessment.

No Owner may waive or otherwise escape liability for the assessments provided for herein by nonuse of the Common Areas or abandonment of his Lot.

ARTICLE TWELVE: CORPORATE SEAL

The Association shall have a seal in circular form having within its circumference the words: THE BERTHOUD ESTATES COMMUNITY ASSOCIATION.

ARTICLE THIRTEEN: MISCELLANEOUS

13.1 Character of Association • This Association is not organized for profit. No Member, member of the Board of Directors, or officer shall receive any pecuniary profit from the operation thereof, and in no event shall any part of the funds or assets of the Association be distributed to, or inure to the benefit of, any Director, officers or Members, except upon a dissolution of the Association, provided however, always, that reasonable salary may be paid to any Member who is in the employ of the Association for his services as such employee, and than any Member, manager, director, or officer may, from time to time, be reimbursed for his actual and reasonable expenses incurred in connection with the administration of the affairs of the Association.

13.2 Fiscal Year • The fiscal year of the Association shall begin on the first day of January and end on the thirty-first day of December of every year, unless changed by the Board of Directors. The first fiscal year shall begin on the date of incorporation.

13.3 Proof of Ownership • Except for those Owners who initially purchase a Lot from Declarant and except for those owners who purchase from the Veterans Administration pursuant to an unrecorded executory land sales contract, or an assignment of the purchasers' rights thereunder (who shall be required by the Association to furnish copies of the unrecorded documents), every person becoming an Owner of a Lot shall immediately furnish to the Board of Directors a photocopy of the recorded instrument vesting in that person such ownership, which instrument shall remain in the files of the Association. A Member shall not be deemed to be in good standing nor shall he be entitled to vote at any annual or special meeting of Members unless this requirement is first met.

IN WITNESS WHEREOF, the undersigned have hereunto set their hands this _____ day of _____, 19____.

BOARD OF DIRECTORS:

CERTIFICATION

I, the undersigned, do hereby certify:

THAT I am the duly elected and acting secretary of The Berthoud Estates Community Association; and

THAT the foregoing Bylaws constitute the original Bylaws of said Association, as duly adopted at a meeting of the Board of Directors thereof, held on the ____ day of _____, 19__.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed the seal of said Association this ____ day of _____, 19__.

Secretary