

**BRUSH MOUNTAIN HOA, INC.**  
**BYLAWS**

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# ARTICLE I

## NAME AND LOCATION.

The name of the corporation is BRUSH MOUNTAIN HOA INC., hereafter referred to as the "Association." The principle office of the corporation shall be located at 2830 Gerhardt Cir., Spring Valley, OH 45370. Mailing address is P.O. Box 284, Bellbrook, Ohio 45305. Meetings of members and directors may be held at such places as may be designated by the Board of Directors.

# ARTICLE II

## DEFINITION

**Section 1.** "Association" shall mean and refer to BRUSH MOUNTAIN HOA, INC. its successors and assigns.

**Section 2.** "Properties" shall mean and refer to that certain real property located in Bell County Kentucky known as BRUSH MOUNTAIN FARMS, as depicted by plats of record in the Bell County Court Clerk's Office in Pineville, Kentucky on Plat Slide Numbers 285, 286, 287, 288, 289, 295, 298, 309, 324.

**Section 3.** "Common Areas" shall mean all real property designated on the plats for the common use and enjoyment of the Owners.

**Section 4.** "Lot" shall mean and refer to any plot of land shown upon any recorded subdivision map of the Properties except for the Common Areas.

**Section 5.** "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of the fee simple title to any Lot which is a part of the Properties, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

**Section 6.** "Declaration" shall mean and refer to the Declaration of Covenants, Conditions and Restrictions applicable to the Properties recorded in the Bell County Clerk's Office in Pineville, Kentucky.

**Section 7.** "Member" shall mean and refer to those persons entitled to membership as provided in the Declaration.

**Section 8.** "Developed Lot" shall mean one that has an Association Board of Director's or Architectural Control Committee's approved residence built on it in accordance with the Declarations.

## ARTICLE III

### MEETING OF MEMBERS

**Section 1. ANNUAL MEETINGS.** The annual meeting of the Brush Mountain Home Owners Association shall be held in the month of June or at a time deemed more appropriate by the Board of Directors.

**Section 2. 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 membership.

**Section 3. 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 mailing a copy of such notice, postage prepaid, at least 30 days before such meeting to each member entitled to vote, addressed to the member's address last appearing on the books of the Bell County Clerk, 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 the purposes of the meeting. No issue may be formally voted upon by the membership at a meeting unless properly noticed.

**Section 4. QUORUM.** If information and ballots are sent to all owners of record with the Bell County Clerk's office, or supplied by member to the Association for the purpose of notice for mail-in voting, this will be considered a 100% quorum.

## ARTICLE IV

### BOARD OF DIRECTORS

**Section 1. NUMBER OF DIRECTORS.** The affairs of this Association shall be managed by a Board of Seven (7) Directors, each of whom must be a member in good standing of the Brush Mountain Home Owners Association.

**Section 2. TERM OF OFFICE.** Annually, the members shall elect the required number of directors for a term of three (3) years to replace directors whose terms expire.

**Section 3. 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/her successor shall be appointed by the Board and shall be the person who received the highest vote total without being elected at the last election. If there is no such person, the Board may appoint a member. If the Board is to appoint a new director, all members of the Board must be in 100% agreement. \*\*Any person appointed by the Board will serve until the next election of Directors. The person elected will serve out the remaining term of the person replaced.

**Section 4. *COMPENSATION.*** No director shall receive compensation for any service he may render to the Association. However, any director may be reimbursed for actual expenses incurred in the performance of his/her duties.

**Section 5. *ACTION TAKEN WITHOUT A MEETING.*** The directors shall have the right to take any action in the absence of a meeting that 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.

**Section 6. *EXPENDITURE APPROVAL.*** Any single expenditure by the Board for a purchase or service over \$20,000 must first be approved by the owners. A purchase or service will not be divided to avoid the \$20,000 cap.

**Section 7. *ROTATION OF DIRECTORS.*** With the election of the initial Board of Directors, 2 will end their term after 1 year, 2 will end their term after 2 years and 3 will end their term after 3 years. Elections will be held in the year terms expire and all future terms will be for 3 years. The initial Board members will draw lots to determine whose term expires after 1, 2 or 3 years. Any Director will be eligible for re-election immediately after his term expires.

## **ARTICLE V**

### **NOMINATION TO BOARD OF DIRECTORS**

#### **Section 1. *PROCEDURE FOR NOMINATIONS.***

**A.** At least one hundred (100) days before the annual membership meeting the Board of Directors will post a notice on the Association's Website, and notify all owners by regular mail that an election campaign is to begin. The notice will request members who wish to serve on the Board to submit their names and resumes to the Board within twenty-one (21) days for consideration. In addition, the Board may consider personal solicitation for candidates.

**B.** At least seventy-five (75) days before the Annual Membership Meeting, the Board will nominate, by majority vote, 2 candidates for election to fill each vacancy on the Board if more than 2 apply. If less than 2 apply all will become candidates. All nominees must be property owners in good standing with all assessment fees paid current.

**C.** At least forty-five (45) days prior to the Annual Membership Meeting, the names of all candidates will be posted on the website and their resumes mailed to all association members. All candidates thereafter will be given equal publicity and prominence. This mailing will include a ballot with voting instructions, a date due and an address for returning.

#### **Section 2. *PROCEDURE FOR NOMINATION OF FIRST ELECTED BOARD OF DIRECTORS.***

A. The nomination for Board of Directors shall be conducted as soon as practical after the Association is legally formed. To the extent possible, the above processes will be followed, however, the timing for various steps will be determined by the initial Board of Directors, which consists of three (3) directors identified in the Association's Articles of Incorporation, based on circumstances at the time so as to be most fair to all concerned.

## ARTICLE VI

### MEMBERSHIP VOTING

**Section 1. GENERAL.** All actions that require the approval of the membership will be noticed to them by the Board of Directors at least 15 days prior to the annual or any called meeting and voting will be conducted by written ballot. Absentee, mail-in ballots are permitted. If there is a strong minority viewpoint within the Board of Directors on any matter subject to membership voting, the minority viewpoint shall be required to be included in the voting package sent to the membership, if so requested by the minority.

**Section 2. ALLOCATION OF VOTES.** A membership, whether in one or more names, is entitled to a single ballot. On all matters requiring membership voting, including the election of members of the Board of Directors, each member in good standing is entitled to a vote.

**Section 3. PROXIES.** A member may designate another Association member, in writing, as his/her proxy for a period specified by the Board of Directors to vote on any matter... The proxy must be filed with the Board. The Board will have the right to determine the form of the proxy.

#### **Section 4. VOTING PROCEDURE FOR ELECTION OF BOARD OF DIRECTORS.**

A. The membership will vote by secret ballot with instructions to return it as prescribed by the Board to a specific location within a specific time. . The members may cast, in respect to each Board vacancy, as many votes as they are entitled to exercise under the provisions of the Declaration. Cumulative voting is not permitted. The election of a Board member requires receipt of valid ballots by the membership, but it is not dependent upon convening an annual or special membership meeting.

B. The designated number of candidates receiving the highest number of votes will be declared elected for a full three (3) year term of office. The candidate receiving the next highest number of votes will be declared elected to fill an unexpired term of office, if any. Tie votes will be broken or resolved by drawing lots in the manner determined by the Board.

C. The results will be posted on the website and announced at the next owners' meeting.

**Section 5. *VOTING PROCEDURE ON OTHER MATTERS.*** Voting on other matters will be by secret ballot mailed to the members with instructions for their return. Voting requirements and procedures are the same as those for the voting for election to the Board of Directors (See Section 4 above) except that:

- No vote is valid without convening the regular or special meeting;
- Voting will not be closed until there has been an opportunity to discuss the matter(s) before the membership at the annual or special meeting; and
- Except as otherwise provided in the Bylaws, such matters will be resolved by the majority of all votes cast in person, by proxy, or by absentee ballot.

**Section 5. *GENERAL.*** The results of all voting will be posted on the Associations website in a timely manner.

## **ARTICLE VII**

### **POWERS AND DUTIES OF THE BOARD OF DIRECTORS**

**Section 1. *QUORUM.*** A majority of the number of the directors shall constitute a quorum for the transaction of business on all issues except By Law changes which will require 100% of the Directors. 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.

**Section 2. *POWERS.*** The Board of Directors shall have power to:

**A.** Adopt and publish rules and regulations governing the use of the common areas and facilities and the personal conduct of the members and their guests thereon, and to establish penalties for the infraction thereof;

**B.** Suspend the voting rights and other rights of a member 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 60 days for infraction of published rules and regulations;

**C.** Exercise for the Association all powers, duties and authority vested in or delegated to this 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.** Employ a manager, independent contractors, or such other employees as they deem necessary, and to prescribe their duties, and enter into any contracts with any outside parties for the providing of any and all services that the Board of Directors deems appropriate for the benefit of the Association.

**Section 3. 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 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 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.** Collect annual, special or emergency assessments against each Lot;

**2.** Send written notice of each assessment to every Owner subject thereto at least thirty (30) days in advance of each annual assessment period;

**3.** Authorize the filing of a lien against the property when a payment is 180 days late or earlier if deemed appropriate by the Board of Directors. The due date for assessments will be set by the Board. If payment is made after the due date, an interest charge and late fee will be added to the assessment; and

**4.** Initiate foreclosure proceeding when payment is 180 days late;

**D.** Issue, or cause an appropriate officer to issue, upon demand by any person, a certificate setting forth whether or not any assessment has been paid. A reasonable charge may be made by the Board for the issuance of these certificates. If a certificate states an assessment has been paid, such certificate shall be conclusive evidence of such payment;

**E.** Procure and maintain adequate liability and hazard insurance on property owned by the Association.

**F.** Cause all officers or employees having fiscal responsibilities to be bonded, as it may deem appropriate;

**G.** Cause the common areas to be maintained;



**H.** Prior to each annual meeting, set a date for the first meeting of the new Board; and

**I.** Designate the highest ranking officer who is a continuing director to serve as Chairperson Pro Tempore of the first Board meeting after the annual meeting. After all officers are elected the Pro Tempore shall turn the meeting over to the newly elected officers.

## **ARTICLE VIII**

### **OFFICERS AND THEIR DUTIES**

**Section 1. *ENUMERATION OF OFFICES.*** The officers of this Association shall be a president and vice-president, a treasurer and a secretary who shall at all times be members of the Board of Directors, and such other officers as the Board may from time to time by resolution create.

**Section 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.

**Section 3. *TERM.*** The officers of this Association shall be elected annually by the Board and each shall hold office for one (1) year unless said officer shall sooner resign, or shall be removed, or otherwise qualified to serve.

**Section 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.

**Section 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 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 thereon, the acceptance of such resignation shall not be necessary to make it effective.

**Section 6. *VACANCIES.*** A vacancy in any office may be filled by appointment by the Board. The officer appointed to such a vacancy shall serve for the remainder of the term of the officer he/she replaces.

**Section 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 4 of this Article.

**Section 8. *DUTIES.*** The duties of the officers are as follows:

**A. *President.*** The president shall preside at all meetings of the Board of Directors; shall see that orders and resolutions of the Board are carried out; shall sign all leases, mortgages, deeds, and

other written instruments; and shall co-sign promissory notes and checks, as directed by the Board of Directors.

**B. *Vice-President.*** The vice-president shall act in the place and stead of the president in the event of the president's absence, inability or refusal to act, and shall exercise and discharge such other duties as may be required 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 for the Association:

1. Establish a procedure to see that all monies are deposited in the correct account;
2. Disburse funds as directed by the resolution of the Board of Directors and appropriately dispose of all legal debts of the association;
3. Ascertain that all checks and promissory notes have been signed by an officer approved by the Board of Directors;
4. Ascertain that the proper books of accounting are maintained.
5. After the completion of each fiscal year cause an annual audit of the Association's books to be made by a Public Accountant and
6. Present last year's budget, last year's expenditures and the current year's annual budget if requested by members unable to attend the annual meeting.

## **ARTICLE IX**

### **COMMITTEES**

The Board of Directors shall appoint other committees as deemed appropriate in carrying out its purpose. The Board of Directors shall appoint the Chairperson of each committee. The chairman may be a member of the Board. Each committee chairman shall be responsible for reporting actions of the committee. The committee chairperson is responsible for adhering to the operating procedures approved by the Board.

Each committee will write a mission statement describing their purpose which must be approved by the Board. The committee will make recommendations to the Board on matters for which it was formed and the Board will make the final decision on any recommended actions.

The Board will appoint a Director as liaison to the committee.

## **ARTICLE X**

### **BOOKS AND RECORDS**

The books, records and papers of the Association shall at all times during reasonable business hours be subject to inspection by any member. The Declaration, the Articles of Incorporation, and the Bylaws of the Association shall be available for inspection by any member on the Association's Website or at the primary office of the Association where copies may be purchased at a reasonable cost.

## **ARTICLE XI**

### **ASSESSMENTS**

As more fully provided in the declaration, each member is obligated to pay to the association annual and special assessments that are secured by a continuing lien upon the property against which the assessment is made. Any assessment that is not paid when due will be delinquent. If the assessment is not paid within thirty (30) days after the due date, the assessment shall bear interest at the rate determined by the Board; and the Association may bring an action at law against the Owner personally obligated to pay the same, or foreclose the lien against the property. Interest, late fee, 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 assessment provided for herein by non-use of the common areas or abandonment of his/her lot.

In Phase I, multiple lot owners will pay one (1) assessment on one (1) lot. All other lots in Phase I, no matter their location, are exempt as long as these additional lots remain the property of that owner and are not developed.

In Phases II and III homeowners' association dues and assessments fees will be waived for additional lots that meet all of the following criteria:

- 1.** The lot is owned by the same party that owns another lot in that Phase that is subject to assessment;
- 2.** The lot is adjacent to a lot in that Phase owned by the same party; and
- 3.** There are no improvements upon the adjacent lot except clearing and landscaping.

It is intended that where two of the said lots are adjacent, owned by the same party, and only one has improvements constructed thereon, only one lot will be assessed.

Therefore, in a linear or circular grouping of 2 or more lots with a common property line to one or more of the other lots, only one (1) in the group can be designated as the primary lot. The primary must be the one that is developed or will be developed in the future.

In this group only one (1) undeveloped lot that is adjacent to the primary lot can be exempted from assessment and only as long as it remains the property of the owner and is undeveloped.

## **ARTICLE XII**

### **BYLAWS DEVELOPMENT**

Bylaws of the Association shall be adopted by the Board of Directors and may be altered, amended or rescinded in a manner described below.

#### **Section 1. *INITIAL BYLAWS***

The initial Bylaws of the Association will be written by the first elected Board of Directors, and after being approved by 100% of the Directors, they will be signed by each Director and adopted as a procedure for implementing the Article of Incorporation and Declarations.

#### **Section 2. *CHANGING OF BYLAWS***

**A.** The Board of Directors may alter, amend or rescind all or any portion of the Bylaws by approval of 100% of the then currently elected Directors. Board actions on Bylaws' changes will be governed by Article IV, Section 5 and Article VII, Section 1 of these Bylaws. If approved, the Board will make the changes to the Bylaws and each Director will sign signifying adoption.

**B.** Any Member(s) of the Association in good standing may submit a request to the Board to alter, amend or rescind the Bylaws. The Board will discuss this request with the submitting Member(s) and:

- a. If 100 % of the Directors approve the request, or a compromise request resulting from the discussions, the Board will change the Bylaws in accordance with the procedure in Section 2.A. above.
- b. If the Board and Member(s) cannot come to an agreement on a request to change, the Member(s) may request a vote in accordance with Article VI, Section 5 of these Bylaws which requires approval by a majority (51%) of the entire eligible Membership in good standing. This request for a Membership vote must be accompanied by a letter or email from one fourth (1/4) of all the Members eligible to vote approving the change(s). If passed by the required number of Members eligible to vote, the Board will change the Bylaws in accordance with the procedure in Section 2.A. above.
- c. The Board will identify the eligible Membership voters for the Member(s) to contact.

## **ARTICLE XIII**

### **MISCELLANEOUS**

The fiscal year of the Association shall begin on the first day of June and end on the 31<sup>st</sup> day of May.

## **ARTICLE XIV**

### **CONFLICTS**

In the case of any conflict between the Articles of Incorporation and these Bylaws the Articles shall control; and in the case of any conflict between the Declaration and these Bylaws, the Declaration shall control.

## APPROVALS

A signed copy of these bylaws will be kept in the Association's files.

**IN WITNESS WHEREOF** we, being all of the directors of Brush Mountain Home Owners Association, Inc. have hereunto set our initials on these Bylaws signifying approval:

**NAME**

**DATE**

\_\_\_\_\_  
William Bobo

\_\_\_\_\_  
Jesse Burchett

\_\_\_\_\_  
Mike Wilke

\_\_\_\_\_  
Elizabeth Yagodzinski