

**BYLAWS OF THE SUMMIT AT HAMBURG MOUNTAIN HOMEOWNERS  
ASSOCIATION, INC.**

**ARTICLE I**

**NAME AND LOCATION**

The name of the corporation is THE SUMMIT AT HAMBURG MOUNTAIN HOMEOWNERS ASSOCIATION, INC. The meetings of members (owners of lots) and directors may be held at such place within the State of North Carolina, County of Buncombe, as may be designated by the Board of Directors.

**ARTICLE II**

**DECLARATION AND MEMBERSHIP**

**SECTION 1. INCORPORATION OF DECLARATION.** That Declaration of Covenants, Conditions, and Restrictions of THE SUMMIT AT HAMBURG MOUNTAIN, (hereinafter, the "Declaration"), is the same as recorded in the Office of the Register of Deeds for Buncombe County, North Carolina, in Book 4465 at Page 1213 and entitled Declaration of Covenants, Conditions, and Restrictions, as the same may be amended from time to time, is herein incorporated by reference.

The Association shall have the responsibility of administering THE SUMMIT AT HAMBURG MOUNTAIN Planned Community, (hereinafter, the "Community"), establishing the means and methods of collecting assessments for common expenses, arranging for the management of the Community, enforcing the Declaration and these Bylaws, and performing all of the other acts that may be required of the Association by the North Carolina Planned Community Act (N.C. Gen. Stat. 47F-1-101 et seq.) [hereinafter referred to as the "Act"], and the Declaration. The Association may also amend and supplement the system of administration, the Declaration, and these Bylaws as may be required from time-to-time and perform all other things or acts permitted by the Act. Except to the extent required by the Act, these Bylaws, or the North Carolina Nonprofit Corporation Act, the administration of the foregoing responsibilities shall be performed by the Board of Directors, as set forth herein.

**SECTION 2. MEMBERSHIP.** As provided in the Act, an Owner of a Lot shall become a Member of the Association upon taking title to the Lot and shall remain a Member for the entire period of ownership. If title to a Lot is held by more than one person, the membership shall share in the same proportion as the title, but there shall be only one (1) membership and one (1) vote per Lot. Membership does not include persons who hold interest merely as security for the performance of an obligation, and the giving of a security interest shall not terminate the Owner's membership. Membership shall be appurtenant to each Lot and shall be transferred automatically by conveyance of that Lot and may be transferred only in connection with the transfer of title. Except as set forth in Section 6, no Member shall assign any membership right to a third party.

**SECTION 3. TERMS.** Similarly, the terms as used in these Bylaws shall have the meanings as set forth in Article I of the Declaration unless specifically provided otherwise or the context otherwise requires.

### **ARTICLE III**

#### **MEETING OF MEMBERS**

**SECTION 1. ANNUAL MEETINGS.** There shall be a general meeting of all Members of the Association held each year. The purpose for the meeting is to vote on electing directors to replace those whose term is to expire, to approve the budget for the coming year, and conduct what other business is appropriate. The date and time of the annual meeting is set by the Board of Directors and notice shall be sent by U.S. Mail, email, or other equally reliable means to all members at fifteen (15) days, but not more than fifty (50) days, prior to the meeting date. The meeting shall be held at a suitable convenient location to be determined by the Board of Directors.

**SECTION 2. SPECIAL MEETINGS.** Special meetings of the members can be called at any time by the President or by a majority of the Board of Directors, or by Members having ten percent (10%) of the votes in the Association.

**SECTION 3. NOTICE OF MEETING.** It shall be the duty of the Secretary to mail or to cause to be delivered to the Lot Owners a notice of each annual or special meeting of the Association at least fifteen (15) days and not more than fifty (50) days prior to each annual or special meeting. The notice of any meeting must state the time and place of the meeting and the items on the agenda, including the general nature of any proposed amendment to the Declaration or Bylaws, any budget changes, and any proposal to remove a director or officer. In the case of a special meeting, the notice of the meeting shall state specifically the purpose or purposes for which the meeting is called. Notices shall be delivered personally, by USPS mail, or via email to each Owner of record to the address on file with the Association for that owner; if any Owner wishes notice to be given at an address other than that on file with the Association, the Owner shall designate said request in writing to the Secretary. The mailing or delivering of a notice of meeting in the manner provided in this Section shall be considered service of notice.

**SECTION 4. WAIVER OF NOTICE.** Waiver of notice of a meeting of the Owners shall be deemed the equivalent of proper notice. Any Owner may, in writing, waive notice of any meeting of the Owners, either before or after such meeting. Attendance at a meeting by an Owner, whether in person or by proxy, shall be deemed a waiver by such Owner of the time, date, and place thereof, unless such Owner specifically objects to lack of proper notice at the time the meeting is called to order. Attendance at a special meeting shall also be deemed a waiver of notice of all business transacted, unless objection to lack of notice is raised before the business, of which proper notice was not given, is put to a vote.

**SECTION 5. QUORUM.** The presence at the meeting of members entitled to cast and the total of proxies entitled to cast must equal fifty percent (50%) of the votes of the membership and shall constitute a quorum for any action except as otherwise provided in the Articles of Incorporation or these Bylaws. If, however, such quorum shall not be present or represented at any meeting, the members to vote thereat shall have power to adjourn the meeting from time to

time, without notice other than announcement at the meeting, until a quorum as aforesaid shall be present or represented.

**SECTION 6. PROXIES.** To be valid, a proxy must be filed with the Secretary prior to the opening of the meeting for which it is to be used and must be dated. No proxy shall be revocable except by written notice delivered to the Association before a meeting or, if at the meeting, to the person presiding. All proxies automatically cease upon conveyance by the Owner of their Lot.

**SECTION 7. VOTE BY WRITTEN BALLOT.** In accordance with Section 55A-7-08 of the North Carolina Nonprofit Corporation Act, any action at any annual, regular, or special meeting of members may be taken without a meeting if the Association delivers by mail or otherwise a written ballot to every member entitled to vote on the matter.

**SECTION 8. ADJOURNMENT.** Any meeting of the Owners may be adjourned from time to time by the President or Chairperson or by a vote of the Owners holding the majority of the votes represented at such meeting, regardless of whether a quorum is present. Any business that could be transacted properly at the original session of the meeting may be transacted at an adjourned session, and no additional notice of such adjourned session shall be required.

**SECTION 9. CONDUCT AND BUSINESS.** Simplified Parliamentary rules shall govern the conduct of the meeting, when not in conflict with the Declaration, Articles of Incorporation, these Bylaws, or any ruling made by the person presiding over the meeting.

**SECTION 10. VOTING.** Lot owners shall vote on all matters in the manner set forth in Section 4.05(c) of the Declaration. The Board may prohibit any owner from voting, either in person or by proxy, or from being elected to the Board of Directors if such owner is shown on the books or management accounts of the Association to be more than sixty (60) days delinquent in any payment due the Association.

**SECTION 11. MAJORITY.** As used in these Bylaws, for any vote of the membership held in accordance with or pursuant to the Declaration, the term "majority" shall mean those votes of Owners, as the context may indicate, totaling more than fifty percent (50%) of the total number of eligible votes of Owners. Unless otherwise specifically stated, the words "majority vote" shall mean more than fifty percent (50%) of the eligible votes of the Association represented at a meeting in person or by proxy. Unless otherwise provided in the Declaration or these Bylaws, all decisions shall be by majority vote.

#### ARTICLE IV

#### BOARD OF DIRECTORS: SELECTION, TERM OF OFFICE

**SECTION 1. COMPOSITION.** The affairs of the Association shall be governed by the Board of Directors. The Board shall be composed of at least three (3) directors. Directors must be residents of the Community. If a Lot is held by more than one person, only one member owning such Lot shall be able to serve as a director at a time.

**SECTION 2. NOMINATION.** Election to the Board of Directors shall be made by nomination prior to or from the floor at the annual meeting.

**SECTION 3. ELECTION AND TERM OF OFFICE.** Directors shall be elected by vote of those persons present, in person or by proxy, at the annual meeting where a quorum is present. Election to the Board of Directors shall be by written ballot. At 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. Those persons receiving the most votes shall be elected to the number of positions to be filled. The Association shall publish the names and addresses of all Directors within 30 days of their election.

The term of office for directors shall be for three (3) years, commencing from the date of election and continuing until the election of successors.

**SECTION 4. REMOVAL OF MEMBERS OF THE BOARD OF DIRECTORS.** At any regular or special meeting of the Association duly called and at which a quorum is present, any one or more of the members of the Board of Directors may be removed, with or without cause, by at least a majority vote of all present and entitled to vote at such meeting and a successor may then and there be elected to fill the vacancy thus created. Any director whose removal has been proposed by the Members shall be given at least ten (10) days' notice of the calling of the meeting and the purpose thereof and shall be given an opportunity to be heard at the meeting. Additionally, any member of the Board of Directors who has been absent without an excuse from three (3) consecutive Board meetings may be removed from the Board by the vote of a majority of the Board members present at a Board meeting where a quorum is present.

**SECTION 5. COMPENSATION.** No director shall receive compensation for any service he or she may render to the Association in his or her capacity as a director. However, any director may be reimbursed for his or her reasonable expenses incurred in the performance of his or her duties or his or her actual expenses incurred while serving as a contractor to the Association.

**SECTION 6. ACTION TAKEN WITHOUT A MEETING.** The directors shall have the right to take any action in the absence of a Board of Directors meeting, which they could take at a meeting of the directors by obtaining the oral or written approval of all the directors. Any action so approved shall be confirmed at the next regular meeting, shall be entered into the minutes of that meeting, and shall have the same effect as though taken at a meeting of the directors.

**SECTION 7. VACANCIES.** Vacancies in the Board of Directors caused by any reason, other than the removal of a director by a vote of the Association, shall be filled by a vote of the majority of the remaining directors, and no quorum at the meeting shall be required. Each person so selected shall serve until a successor shall be elected at the next annual meeting of the Association to fill the unexpired portion of the term.

## ARTICLE V

### MEETINGS OF DIRECTORS

**SECTION 1. ORGANIZATIONAL MEETING.** A meeting of a newly elected Board shall be held within thirty (30) days of election at such place and hour as may be determined by the directors.

**SECTION 2. REGULAR MEETINGS.** Regular meetings of the Board of Directors shall be held monthly, at such place and hour as may be fixed from time to time by resolution of the Board.

**SECTION 3. SPECIAL MEETINGS.** Special Meetings of the Board of Directors may be called by the President on (3) days' notice to each director given by mail, email, in person or by telephone, which notice shall state the time, place, and purpose of the meeting. Special meetings of the Board of Directors shall be called by the Vice President, Secretary, or Treasurer in like manner and on notice of the written request of at least two (2) directors.

**SECTION 4. QUORUM.** A majority (greater than 50%) of the numbers 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.

**SECTION 5. WAIVER OF NOTICE.** Any director may, at any time, in writing, waive notice of any meeting of the Board of Directors, and such waiver shall be deemed equivalent to the giving of such notice. Attendance by a director at any meeting of the Board of Directors shall also constitute a waiver of notice by them of the time and place of such meeting. If all directors are present at any meeting of the Board of Directors, no notice shall be required and any business may be transacted at such meeting.

**SECTION 6. CONDUCT OF MEETINGS.** The President shall preside over all meetings of the Board of Directors, and the Secretary shall keep a minute book recording therein all resolutions adopted by the Board of Directors and a record of all transactions and proceedings occurring at such meetings. Simplified Parliamentary procedures shall govern the conduct of the meetings of the Board of Directors when not in conflict with the Planned Community Act, the Declaration, the Articles of Incorporation, these Bylaws, or any ruling made by the person presiding over the meeting. At regular intervals the Board will provide members the opportunity to attend Board meetings and speak about their issues or concerns in accordance with Section 47F-3-108 of the Act, and any reasonable restrictions that the Board may place thereon.

**SECTION 7. TIE VOTES.** In the event of a tie vote by the Board of Directors, the President may, in addition to their vote as a Board member, exercise a supplemental vote to break the tie vote.

## ARTICLE VI

### POWERS AND DUTIES OF THE BOARD OF DIRECTORS

**SECTION 1. POWERS AND DUTIES.** The Board of Directors shall manage the affairs of the Association and shall have all the powers and duties necessary for the administration of the Community and may do all such acts and things as are not by Declaration, Articles of Incorporation, or these Bylaws directed to be done and exercised exclusively by the Association Members. The Board shall have the power to adopt, modify, and repeal such reasonable rules and regulations as it deems necessary and appropriate for the governance of the Planned Community or the administration of the affairs of the Association and to impose sanctions for

- (q) Exercise any other powers conferred by the Declaration or Bylaws;
- (r) Exercise all the other powers that may be exercised in this State by nonprofit corporations;
- (s) Exercise any other powers necessary and proper for the governance and operation of the Association;
- (t) Employ a manager, an independent contractor, or such other employees as they deem necessary, and to prescribe their duties. All contracts are to be reviewed by the Board of Directors.
- (u) 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;
- (v) Supervise all officers, agents, and employees of the Association, to confirm that their duties are properly performed;
- (w) Issue, or cause an appropriate officer to issue, upon demand by any person, a certification 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 a payment;
- (x) Procure and maintain adequate liability and hazard insurance on property owned by the Association;
- (y) Cause all officers or employees having fiscal responsibilities to be bonded, as it may be deemed appropriate; and
- (z) Cause the Common Area to be maintained according to provisions contained in the Declaration.

**SECTION 2. COMMITTEES.** The Board may establish an Architectural Review Committee for the purpose of establishing and maintaining architectural standards on Planned Community property, as hereinafter provided. Furthermore, the Board may establish such other committees as it deems desirable. The Board shall elect the chairperson.

**SECTION 3. CAPITAL RESERVE FUND.** The Board of Directors shall establish a capital reserve fund that is separate from the general operating fund used to meet routine monthly expenses in accordance with the annual budget. The capital reserve fund may be established and maintained by allocation of a portion of the yearly assessment or by periodic special assessments. The purpose of the capital reserve fund is to have sufficient resources available to pay for major maintenance, repair, or replacement of the Common Areas.

## ARTICLE VII

### OFFICERS

**SECTION 1. DESIGNATION.** The officers of the Association consist of a President, a Secretary, a Treasurer, and such Vice-Presidents, Assistant Secretaries, Assistant Treasurers, and other officers as the Board, from time to time, may elect. Except for the President, no officer need be a member of the Board.

**SECTION 2. ELECTION OF OFFICERS AND TERM.** The Officers of the Association shall be elected annually by the Board of Directors at the first meeting of the Board following each annual meeting of the members and shall hold office at the pleasure of the Board of Directors until a successor is elected. The Association shall publish the names and addresses of all officers within 30 days of their elections.

**SECTION 3. RESIGNATION AND REMOVAL OF OFFICERS.** Any officer may be removed from office with or without cause by the Board by a majority vote. Any officer may resign at any time by 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.

**SECTION 4. 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 or she replaces.

**SECTION 5. PRESIDENT.** The President shall be the chief executive officer of the Association and shall preside at all meetings of the Members and of the Board of Directors. The President shall have all the general powers and duties that are incident to the office of the president of a corporation organized under the North Carolina Nonprofit Corporation Act.

**SECTION 6. VICE PRESIDENTS.** The Vice Presidents, if any, in the order of their election, unless otherwise determined by the Board shall act in the President's absence and shall have all powers, duties, and responsibilities provided for the President when so acting.

**SECTION 7. SECRETARY.** The Secretary shall keep the minutes of all meetings of the members and of the Board of Directors and shall have charge of books and papers as the Board of Directors may direct, and shall, in general, perform all duties incident to the office of the Secretary of a corporation organized in accordance with North Carolina law.

**SECTION 8. TREASURER.** The Treasurer shall have the responsibility for the Association's funds and securities and shall be responsible for keeping full and accurate financial records and books of account showing all receipts and disbursements, for preparing all required financial statements and tax returns, and for the deposit of all monies and other valuable effects in the name of the Association or the managing agent in depositories as may from time to time be designated by the Board of Directors. Furthermore, the Treasurer shall cause an annual audit or review of the books to be made as directed by the Board or Association at the completion of each fiscal year, keep proper books of account; and shall prepare an annual budget and statement of income and expenditures to be presented to the membership at its regular annual meetings, and deliver a copy of each to the members.

**SECTION 9. AMENDMENTS TO DECLARATION AND BYLAWS.** The Board of Directors shall prepare and the President shall execute, certify, and record amendments to the

violations thereof, including, without limitation, monetary fines. Such powers and duties shall include but not be limited to:

- (a) Adopt and amend Rules and Regulations;
- (b) Adopt and amend budgets for revenues, expenditures and reserves;
- (c) Collect assessments for common expenses for Lot Owners;
- (d) Hire and terminate managing agents and other employees, agents, and independent contractors;
- (e) Institute, defend, or intervene in its own name in litigation or administrative proceedings on matters affecting the Planned Community;
- (f) Make contracts, open bank accounts, and incur liabilities;
- (g) Regulate the use, maintenance, repair, replacement and modification of common elements;
- (h) Cause improvements to be made as a part of the common elements within the limits of expenditures permitted by the Declaration and/or Bylaws;
- (i) Acquire, hold, encumber, and convey in its own name right, title or interest to real or personal property, provided that common elements may be conveyed or subjected to a security interest only pursuant to Section 47F-3-112 of the Planned Community Act. In no event, however, shall the Board expend more than the sum of Twenty Thousand and 00/100 (\$20,000.00) without prior written authorization from a majority of the membership;
- (j) Grant easements, leases, licenses, and concessions through or over the common elements;
- (k) Impose and receive any payments, fees, or charges for the use, rental, or operation of the common elements;
- (l) Impose reasonable charges for the late payment of assessments, not to exceed the greater of twenty dollars (\$20) per month or 10% of any assessment installment unpaid, and after notice and an opportunity to be heard levy fines and suspend privileges in accordance with the provisions of Section 47F-3-107.1 of the Planned Community Act;
- (m) Impose reasonable charges for the preparation and recording of amendments to the Declaration or statement of unpaid assessments;
- (n) Provide for the indemnification and maintenance of liability insurance for its officers, employees, and agents;
- (o) Borrow money and assign its right to future income, including the right to receive common expense assessments, subject to approval of the purpose of the borrowing by a majority of the vote of the members of the Association;
- (p) Prepare, execute, certify and record amendments to the Declaration and Bylaws on behalf of the Association;



Declaration and Bylaws on behalf of the Association. The Secretary shall attest to such execution and certification.

## ARTICLE VIII

### MISCELLANEOUS

**SECTION 1. NOTICES.** Unless otherwise provided in these Bylaws, all notices, demands, bills, statements, or other communications under these Bylaws shall be in writing and shall be deemed to have been duly given if delivered personally, via email, or if sent by United States mail, first class postage prepaid:

(a) if to a Lot Owner, at the address which the Lot Owner has designated in writing and filed with the Secretary or managing agent, or, if no such address has been designated, at the address of the Lot of such Owner; or

(b) if to the Association, the Board of Directors, or the managing agent, at the principal office of the Association or the managing agent, if any, or at such other address as shall be designated in accordance with subsection (a) hereof.

**SECTION 2. SEVERABILITY.** The invalidity of any part of the Declaration or these Bylaws shall not impair or affect in any manner the validity, enforceability, or effect of the balance of the Declaration or these Bylaws.

**SECTION 3. CAPTIONS.** The captions herein are inserted only as a matter of convenience and for reference and in no way define, limit, or describe the scope of the Declaration or these Bylaws or the intent of any provision thereof.

**SECTION 4. FISCAL YEAR.** The fiscal year of the Association shall begin on the first day of January and end on the 31st day of December of the same year.

**SECTION 5. AUDIT.** A review of the accounts of the Association shall be made by a designated Board member other than the treasurer annually, unless otherwise provided for herein, the results of which shall be communicated to each of the members. However, after having received the Board's audit or review at the annual meeting, the Owners may, by a majority of the total Association vote, require that the accounts of the Association be audited as a common expense by an independent accountant.

**SECTION 6. CONFLICTS.** In the event of conflicts between the North Carolina Planned Community Act, the Declaration, these Bylaws, and Rules and Regulations, the Planned Community Act, the Declaration, the Bylaws and Rules and Regulations shall control, in that order.

**SECTION 7. BOOKS AND RECORDS.** The books, records, and papers of the Association shall, during regular business hours, be subject to inspection by any member pursuant to the N.C. Gen. Stat. § 55A-16-02. The Declaration, the Articles of Incorporation, and the Bylaws of the Association shall be available for inspection by any member at the office of the secretary, where copies may be purchased at a reasonable cost. All Association records shall be kept and made available in accordance with the terms of Section 47F-3-118 of the Act.

**SECTION 8. AMENDMENT.** These Bylaws may be amended by the affirmative vote, written consent, or any combination of affirmative vote and written consent of the members holding a majority of the total votes entitled to be cast on the amendment. Notice of any meeting at which an amendment will be considered shall state that fact and the subject matter of the proposed amendment.

The Summit at Hamburg Mountain Homeowners Association, Inc.

By: Patricia Z. Diaz  
Name: Patricia Z. Diaz  
Title: President, HOA

STATE OF North Carolina  
COUNTY OF Buncombe

I, Hunter Bosnick, certify that Patricia Z Diaz personally came before me this day and acknowledged that s/he is President of The Summit at Hamburg Mountain Homeowner' Association, Inc., a North Carolina nonprofit corporation, and that s/he as its President, being authorized to do so, executed the foregoing on behalf of the corporation.

Witness my hand and official seal, this the 17<sup>th</sup> day of June, 2022.

My Commission Expires:  
10-1-2025

Hunter Bosnick  
Notary Public  
Hunter Bosnick  
Printed Name of Notary Public

