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Lori A Mitchell

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Chaffee County Clerk

**BYLAWS OF THREE ELK CREEK ESTATES, INC.  
P. O. BOX 110  
BUENA VISTA, CO 81211**

<https://www.3elkcreekhwa.com>

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**ARTICLE 1—NAME, LOCATION, ADDRESS, AND WEBSITE**

The name of the corporation is Three Elk Creek Estates, Inc., a Colorado nonprofit corporation, the legal successor to Mt. Columbia Elk Estates Association, Inc., hereinafter referred to as the "Association." The principal office of the corporation shall be located in Chaffee County, Colorado, but meetings of Members and the Board of Directors may be held at such places within the State of Colorado as may be designated by the Board of Directors. The mailing address of the Association is P.O. Box 110, Buena Vista, Colorado 81211. Three Elk Creek Estates Inc., website is <https://www.3elkcreekhwa.com>

**ARTICLE 2—DEFINITIONS**

**Section 1: "Adjacent Lot Road Assessment"** shall be the annual fee assessed to non-member lots outside the Subdivision that utilize the Three Elk Creek Estates, Inc. private roads.

**Section 2. "Annual Fiscal Assessment"** shall mean the fee charged by the Association to cover general operating expenses for the upcoming Fiscal Year.

**Section 3: "Association"** shall mean and refer to Three Elk Creek Estates, Inc., its successors, and assigns.

**Section 4: "Common Areas"** shall mean and refer to all real property including roads owned by the Association for the common use and enjoyment of the Owners.

**Section 5: "Contingency Fund"** shall be used for any expenses not included in the general operating procedures. Expenditure of these funds is not limited to attorney's fees; these funds may be used for engineering work, or physical improvement, or maintenance necessary arising from unforeseen circumstances.

**Section 6: "Declaration"** shall mean and refer to the Amended and Restated Declaration of Covenants, Conditions and Restrictions in force and effect applicable to the Subdivision as recorded in the office of the Clerk and Recorder, Chaffee County, Colorado.

**Section 7: “Delinquent Assessment”** shall be an assessment that is not paid on or before the date due as identified by the Association.

**Section 8: “Fiscal Year”** of the Association shall be from June 1st to May 31st.

**Section 9: “General Operating Fund”** shall be for the use and benefit of the Association to be expended at the discretion of the Board of Directors in fulfilling its authorized obligations.

**Section 10: “Lot”** shall mean and refer to any plot of land included in the Properties with the exception of the Common Areas.

**Section 11: “Member”** shall mean and refer to those who are Owners of a Lot within the Subdivision.

**Section 12: “Owner”** shall mean and refer to the record owner or owners of legal title to any Lot which is part of the Properties but excluding those having such interest merely as security for the performance of obligation.

**Section 13: “Properties”** shall mean and refer to those certain real properties described in the Amended and Restated Declaration of Covenants, Conditions and Restrictions, defined and such additions as may be brought within the jurisdiction of the Association.

**Section 14: “Special Assessment”** shall mean a fee voted on by sixty-six and two-thirds percent (66 2/3%) of the Voting Members to cover expenses that are brought about by extraordinary circumstances.

**Section 15: “Subdivision”** shall mean the Three Elk Creek Estates, Inc., platted subdivision as filed in the office of the County Clerk and Recorder of Chaffee County, Colorado.

**Section 16: “Voting Member”** shall mean the owner of each Lot. Each Lot is entitled to one (1) vote to be cast by the Voting Member of such Lot, provided the assessments against the Lot are not delinquent. The Voting Member may cast their vote in person, by proxy, by mailed or emailed ballot.

**ARTICLE 3—PURPOSE**

The purpose of the Association shall be to support the Covenants, protect and preserve values of Properties within the Subdivision, subject to the rules and regulations of the Association, to maintain Common Areas and to provide for an equitable basis upon which Members may share the cost.

**ARTICLE 4—MEMBERSHIP**

As stipulated in the Declaration, every person who acquires legal title to any Lot in Three Elk Creek Estates, Inc., subdivision shall become a Member of Three Elk Creek Estates, Inc.

**ARTICLE 5—ASSESSMENTS**

**Section 1: AMOUNT**

- a). Annual Fiscal Assessments to each Lot shall be the amount authorized by vote at an Annual Meeting or any Special Meeting, or by a ballot, of at least sixty-six and two-thirds percent (66 2/3%) of the Voting Members.
- b). Special Assessment. Assessments to each Lot shall be the amount authorized by vote at an Annual Meeting or any Special Meeting, or by a ballot, of at least sixty-six and two-thirds percent (66 2/3%) of the Voting Members.
- c). Contingency Fund. Ten percent (10%) of the Annual Fiscal Assessment shall be set aside in an interest-bearing account as a Contingency Fund until that fund reaches ten thousand dollars (\$10,000). The remainder of the Annual Fiscal Assessments shall be allocated to the General Operating Fund.
- d). Every assessment shall be paid by the Member of the Association on or before the date established by the Board of Directors pursuant to the resolution adopted by such Board fixing the amount of the annual charge. Written notice of the assessment and the date of payment due to shall be sent to each Member.
- e). Adjacent Lot Road Assessments. Each non-member lot shall be assessed 2% of the previous Fiscal Year's actual road expenses.

**Section 2: RIGHTS OF COLLECTION**

- a). No Owner shall be excused or exempted from assessments provided for herein.
- b). All proper assessments as provided for herein shall be a lien in favor of the Association against any Lot affected hereby until paid. To evidence such lien, the Association, after taking reasonable action to collect the delinquent assessment, and after notifying the Owner of the action to be taken within thirty days, shall prepare a written notice setting forth the amount of such unpaid indebtedness, the name of the Owner and the description of the Property as to which the delinquency occurred. Such notice shall be signed and acknowledged by the President or the Vice-President of the Association and shall be recorded in the office of the Clerk and Recorder of Chaffee County, Colorado. Such lien may be enforced by foreclosure by the Association in the same manner as a mortgage lien on real property. In any such foreclosure the delinquent Owner shall be required to pay the costs, expenses, and reasonable attorney's fees for the filing of the notice of lien and those incurred in connection with foreclosure, all of which shall be secured by the lien being foreclosed.
- c). The board is empowered to assess a late penalty for nonpayment of dues and assessments in the amount of twenty percent (20%) of the past due amount. The late penalty will be assessed at the time the assessment becomes delinquent. The late penalty is in addition to actual lien filing costs.

**Section 3: PAYMENT DUE DATES**

- a). The Annual Fiscal Assessments for the upcoming Fiscal Year shall be billed to each Owner on or before April 15th of each year and shall be payable on or before, and be delinquent after, June 1st of the same year. The Adjacent Lot Road Assessments for the Fiscal Year shall be billed to each Owner on or before June 15<sup>th</sup> of each year and shall be payable on or before, and be delinquent after, August 1<sup>st</sup> of the same year.
- b). Special Assessments shall be due by the date voted on in the Special Assessment ballot and shall be delinquent after such date.

**ARTICLE 6—BOARD OF DIRECTORS**

**Section 1: NUMBER** The board of Directors shall consist of five (5) Voting Members of the Association.

**Section 2: POWERS AND DUTIES** The Board of Directors shall have management and supervision of the affairs of the Association and shall exercise all powers, duties, responsibilities, and authority vested in or delegated to the Association and not reserved in these Bylaws, Articles of Incorporation and Declaration to the Members. Such power, duties, responsibilities, and authority shall specifically include the following

- a). Establishing proper management and financial policies.
- b). Preparing yearly budgets to determine the annual assessment for the coming year.
- c). Procuring and maintaining liability insurance for Common Areas.
- d). Selecting a qualified party for the annual accounting review and, when deemed necessary, obtaining legal advice, and instigating and prosecuting such legal action as may be necessary to effect and enforce the purposes of the Bylaws, the Articles of Incorporation, and the Declaration.
- e). Establishing, in the judgment of the Board of Directors, proper operating rules and regulations for Common Areas, and revising such rules and regulations. A copy of these rules and regulations and any revisions shall be given or mailed to each Owner.
- f). Providing year-round physical maintenance of all Common Areas, including snow plowing of Subdivision roads.
- g). Contracting for materials and services required in the judgment of the Board of Directors to fulfill the obligations and responsibilities of the Association and supervising such work to insure performance standards and adherence to budget.
- h). Appointing committees for such purposes as the Board of Directors may deem appropriate.
- i). Publishing and distributing a newsletter of interest to Owners at intervals to be determined by the Board of Directors.

**Section 3: ELECTION AND TERM OF OFFICE** A five (5)-person Board of Directors shall be elected by the Members at the Annual Meeting in June; initially, two (2) directors of said number for term of office for three (3) years, two (2) for two (2) years, and one (1) for one (1) year. Thereafter

directors shall be elected annually for a three (3)-year term to replace any directors whose terms of office have expired. Directors shall serve until their successors have been duly elected and qualified.

**Section 4: ELIGIBILITY** All persons nominated for election to the Board of Directors shall be Voting Members.

**Section 5: VACANCIES** Vacancies on the Board of Directors, for any reason, may be filled by vote of the majority of the remaining directors to serve until the next Annual Meeting; provided, however, that in the event more than two (2) vacancies exist at any time, all such vacancies shall be filled by a vote of a majority of the Voting Members at a Special Meeting called for the purpose.

**Section 6: BOARD MEETING, QUORUM, AND NOTICE** The Board of Directors shall hold its first meeting immediately after the Annual Meeting. No notice of this meeting shall be required to be given to directors. Board meetings may be called by the President or by any two (2) or more members of the Board of Directors at any time upon seven (7) days notice to all directors by letter or telephone. The agenda of any board meeting shall be stated in the notice. The agenda for all board meetings shall be posted 7 days in advance on the Association bulletin board. At any meeting of the Board of Directors, a majority of the whole Board shall constitute a quorum.

**Section 7: APPROVAL OF DISBURSEMENTS** The Board of Directors shall approve all expenditures of funds of the Association and such approval shall be reflected in the minutes. Except where prior approval has been given by Voting Members, expenditures in excess of one thousand dollars (\$1,000.00.) during any Fiscal Year for any single project not authorized in Section 2 (Powers and Duties of Board of Directors) shall require approval by a majority of the Voting Members at an Annual Meeting, or any Special Meeting, or by a mailed ballot. Disbursements shall be identified by name and amount in the minutes of the meeting of the Board and shall be paid by check.

**Section 8: MANNER OF ACTING** Except as otherwise provided, the act of the Directors at a meeting at which a quorum exists shall constitute the act of the Board.

**ARTICLE 7—OFFICERS**

**Section 1: DESIGNATION** The officers of the Association shall be a President, a Vice-President, a Secretary, a Treasurer, and a Member-at-large, all of whom shall be elected by and from the board of Directors.

**Section 2: ELECTION OF OFFICERS** The officers of the Association shall be elected by the Board of Directors within seven (7) days of the Annual Meeting.

**Section 3: RESIGNATION AND REMOVAL OF A BOARD MEMBER**

- a). **RESIGNATION** Any officer or member of the Board 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. The vacancy shall be filled following Article 6, Section 5 of the Bylaws.
- b). **REMOVAL** If it becomes necessary to consider the removal of any officer or member of the Board, a Special Meeting shall be called where the facts and information regarding the removal will be reviewed. The officer or member of the Board may then be removed by an affirmative vote of the majority of the Voting Members. The vacancy shall then be filled following Article 6, Section 5 of the Bylaws.

**Section 4: PRESIDENT** The President shall be the chief executive officer of the Association. The president shall preside as chairperson at all meetings of the Members and the Board of Directors.

**Section 5: VICE-PRESIDENT** The Vice-President shall act in the place of the President during his or her absence or disability to act. If both the President and the Vice-President are absent, the Board of Directors shall appoint some other member of the Board to act as chairperson on an interim basis.



**Section 6: TREASURER**

- a). The Treasurer shall be bonded and shall receive all moneys and be responsible for keeping full and accurate accounts of all receipts and disbursements All moneys shall be deposited in a bank designated by the Board of Directors.
- b). The Treasurer shall bill all assessments as prescribed in Article 5 and will provide the Board with the name of anyone who is delinquent.
- c). The Treasurer shall maintain the financial records of the Association and shall submit a Treasurer's report at the Annual Meeting.
- d). The Treasurer shall present a concise financial statement at each meeting of the Board or whenever requested by the Board.
- e). The Treasurer shall have the financial records prepared at the close of the Fiscal Year for review by a qualified party selected by the Board of Directors.
- f). The Treasurer shall prepare a proposed budget to be included in the call letter to the annual meeting.

**Section 7: SECRETARY** The Secretary shall keep the minutes of the meetings, post the minutes of the meetings on the Association's HOA website, maintain the official records of the Association, and shall handle the correspondence as directed by the Board of Directors. In the Secretary's absence, the President shall appoint an acting Secretary.

**Section 8: MEMBER-AT-LARGE** The Member-at-large shall be a voting member on the Board elected by the members of Three Elk Creek Estates, Inc.

**ARTICLE 8—MEMBERSHIP ASSOCIATION MEETINGS**

**Section 1: NOTICE OF MEETINGS** The Board of Directors shall give email notice of the Annual Meeting to all Members not more than fifty (50) and at least thirty (30) days in advance of the Annual Meeting, and at least fourteen (14) days in advance of a Special Meeting. Notice of these meetings must be posted on the Association Bulletin Board.

**Section 2: ANNUAL MEETING** The last Saturday in June shall be designated for the Annual Meeting, and shall be for the purpose of electing Directors, hearing reports of previous years' business, and for the transaction of any other business that may properly come before the meeting.

**Section 3: SPECIAL MEETINGS** A Special Meeting may be called by the Board or shall be called by the Board upon written request of a majority of Voting Members.

**Section 4: REPORTS** Annual reports shall be submitted by the Board of Directors and the Treasurer at the Annual Meeting. Committee reports shall also be presented when requested by the Board of Directors.

**Section 5: QUORUM** The presence, either in person or by proxy, of thirty-five percent (35%) of the Voting Members shall constitute a quorum.

**Section 6: ACT OF MAJORITY** Except as otherwise provided, the act of a majority of the Members present at a meeting at which a quorum exists shall constitute the act of the Members.

**Section 7: PROXIES** A Voting Member may appoint as his or her proxy to another Member of the Association and any such authorization must be filed in writing with the Secretary at least within five (5) days prior to the meeting. A member who is delinquent in payment of assessments may not be appointed as a proxy.

## **ARTICLE 9--COMMITTEES**

The Association shall have the following standing committees: Architectural, Water, Road, Common Area, and Communications/Hospitality. The President, with the approval of the Board of Directors, may appoint such additional standing or temporary committees as are needed to carry on the work of the Association. The appointment of committee chairpersons shall be confirmed by the Board. All persons appointed as committee chairpersons shall be Voting Members.

**Section 1: ARCHITECTURAL** This committee shall use a set of Board approved guidelines to ensure the aesthetics of the Subdivision, as much as possible, and natural view of each separate Lot. The Architectural guidelines can be found on the Three Elk Creek Estates, Inc., HOA website. <https://www.3elkcreekhoa.com>

The responsibilities of the Architectural Committee include the following:

- a). Review of the Lot owner's electronically submitted request to the Architectural Committee for all proposed construction, improvements, or alterations of any structure. The Chaffee County Building Department will determine if a building permit is necessary. All proposed requests must comply with applicable building codes and zoning regulations.
- b). The Architectural Committee will request information for location of the proposed structure on the Lot, materials to be utilized, colors, and dimensions.
- c). The Architectural Committee and the Board will review the Lot owner's request and will respond within 21 days, the decision to approve, disapprove, request additional information, or modifications of the request.
- d). If the Architectural Committee does not approve the request, the Lot owner may appeal to the Board. The Board will review the details of the proposed request and will notify the Lot owner of the decision to approve or disapprove within 21 days of receipt of the appeal.
- e). Neither the Board nor the Architectural Committee will be responsible in any way for any defects arising during or on completion of the proposed request.

**Section 2: WATER** This committee shall oversee the Association water rights and all aspects of water issues pertaining to the Association Pond and Three Elk Creek.

**Section 3: ROAD** This committee shall be responsible for maintenance and improvement of the Association private roads.

**Section 4: COMMON AREA** The purpose of this committee shall be to ensure the aesthetic value and maintenance of all properties held in common. **Common Area guidelines** can be found on the Three Elk Creek Estates Inc. website [www.3elkcreekhoa.com](http://www.3elkcreekhoa.com)

**Section 5: COMMUNICATIONS/HOSPITALITY** This committee will periodically publish an Association newsletter, post notices pertinent to the Associations membership (other than Board business), and welcome new Members with a packet of Association information.

**Section 6: DOCUMENT COMMITTEE** The Committee will review all Three Elk Creek Estates, Inc. documents on an annual basis, or as necessary. Changes to documents may require

reviews/revisions, to assure compliance with State and County regulations, as well as community changes that occur over time. The review shall include Covenants, Bylaws, Policies, Architectural Guidelines, Common Area Guidelines, and the HOA website. The Committee will submit changes to the Board for approval and voting by members if required.

**ARTICLE 10—ACCOUNTING REVIEW**

The books and records of the Association shall be reviewed by a party selected by the Board. The books shall be closed at the end of the Fiscal Year. The review shall take place annually after the books have been closed.

**ARTICLE 11—AMENDMENT OF THE BYLAWS**

These Bylaws may be amended at any Annual Meeting or Special Meeting called for such purpose by a vote of at least sixty-six and two-thirds percent (66 2/3%) of the Voting Members. Any Amendment to be submitted to the Members shall be presented in writing to the Board of Directors at least sixty (60) days prior to the Annual Meeting or thirty (30) days prior to any Special Meeting. The Board shall notify Members of such proposed amendments at least ten (10) days before the Annual or Special Meeting.

**ARTICLE 12—ROBERT’S RULES OF ORDER**

All business proceedings not provided for in these Bylaws shall be governed by Robert’s Rules of Order, revised.

*This document supersedes Bylaws of Three Elk Creek Estates, Inc. recorded as Reception # 403196 in Chaffee County, CO on 10/31/12. The undersigned hereby certify that all revisions were approved by more than 66 2/3% of the Voting Members at the Annual Meeting held at the Buena Vista Public Library on 6/25/22.*

Three Elk Creek Estates, Inc.

By Maria Martinez President

Attest Judy Jones Secretary

