

BIG SKY OWNERS ASSOCIATION, INC. BOARD OF DIRECTORS RESOLUTION

RESOLUTION: Big Sky Architectural Committee Procedure Resolution

Date of Board Adoption: January 17, 2020 Resolution No.: 2020-01

Effective Date: January 17, 2020 Dates Revised: September 4, 2015

RESOLUTION

WHEREAS, the Big Sky Owners Association, Inc. (“BSOA”) adopted Amended and Restated Bylaws for the Big Sky Owners Association, Inc. on January 18, 2008 at its Board meeting and recorded with the Office of the Gallatin County Clerk and Recorder (Document #2290050, January 25, 2008) and the Office of the Madison County Clerk and Recorder (Document #124479, February 11, 2008), and as subsequently amended (“Bylaws”); and

WHEREAS, Article 6, “Committees,” specifically Section 6.5, “Big Sky Architectural Committee” and Section 6.5.1.5, “Powers and Duties” of the Bylaws state that the Big Sky Architectural Committee (“BSAC”) shall have the authority to set and require Owners or their agent post certain deposits prior to commencing construction for the purpose of assuring that construction and landscaping will be completed within the time specified and in substantial compliance with the aesthetics of the approved architectural and landscape plan; and

WHEREAS, Article 6, “Committees,” specifically Section 6.5, “Big Sky Architectural Committee” and Section 6.5.2, “Operational Procedures” of the Bylaws state the basic operation procedures for the BSAC;

WHEREAS, it is the intention of the BSAC to formalize its operation procedures with regard to its review fees, performance deposits, agendas, project representation, condominium approvals, project extension requests and appropriate authority to be delegated to Staff.

NOW THEREFORE, be it resolved that:

Definitions

Use of capitalized terms in this Resolution, otherwise not defined herein, refer to defined terms in the Bylaws, the Design Regulations as amended and restated on January 17, 2014 and effective on January 21, 2014 or as listed on the BSOA’s website at www.bigskymt.org.

Aesthetic Review- post construction review of an Owner’s project completed by Staff to determine that the project is Substantially Complete and in Substantial Conformance with the approved Final Plan. This review is aesthetic only and is not a construction inspection to ensure compliance with any building codes.

Construction Activity- any site preparation; clearing; landscaping; building construction; sign erection; exterior change, modification, alteration or enlargement of any existing structure; paving; fencing; planting or other improvements to any site or other property or building or structure thereon; or any change in the use of any site or other property or building or structure thereon.

Final Plan- the plans as required by the Covenants or the BSAC to be submitted for approval by the BSAC prior to the commencement of any Construction Activity. The approved Final Plan will be date stamped and will be used as the basis for the Aesthetic Review.

Performance Deposit- the deposit that an Owner is required to post with the BSOA prior to commencing a Construction Activity.

Review Fee- the fee that an Owner is required to pay to the BSOA prior to BSAC's review of any proposed Construction Activity.

Substantial Completion or Substantially Complete- the stage of a Construction Activity at which work is sufficiently complete for an Owner to request an Aesthetic Review to determine whether the project is in Substantial Conformance with the approved Final Plan. A project shall not be deemed to be Substantially Complete until all exterior finish and landscaping work has been completed, construction equipment and machinery are demobilized, construction staging materials including but not limited to portable toilets, dumpsters and all debris are cleared from the site.

Substantial Conformance- a determination by Staff or the BSAC that a project is consistent and in conformance with the approved Final Plan and that all conditions of approval of the Final Plan have been met.

Review Fees

Review Fee Schedule- The Board and the BSAC hereby adopt the Review Fee schedule attached hereto and incorporated herein as Exhibit A.

Form of Review Fee- The Review Fee shall be posted by the Owner and the Review Fee shall be made out to and delivered to the BSOA in cash, by personal check, certified or cashier's check or by wire transfer. Wire transfer instructions can be requested from the BSOA office.

When Posted- Projects will not be reviewed by Staff or placed on the BSAC's agenda for review until all Review Fees are paid in full.

Waiver- An Owner may request in writing from the BSAC a waiver to the requirement to pay the Review Fee. The BSAC will review the request at its next regularly scheduled meeting for which there is quorum and make its determination on whether or not to waive the Review Fee. Waivers are made in extremely rare cases and at the sole discretion of the BSAC. The BSAC may consider the following criteria:

- 1) The Owner is a non-profit corporation and its proposed project will benefit the Membership;

- 2) The Owner is a utility or a governmental entity and its proposed project will benefit the Membership;
- 3) The Owner has shown good cause as for why the Review Fee should not be posted; or
- 4) Other criteria as determined by the BSAC.

Refunds- All Review Fees are non-refundable.

Performance Deposits

Intent- The Performance Deposit is an incentive for Owners to complete their projects on time and in Substantial Conformance with the approved Final Plan.

Performance Deposit Fee Schedule- The Board and the BSAC hereby adopt the attached Performance Deposit Fee schedule attached hereto and incorporated herein as Exhibit A. The BSAC reserves the right to require a larger deposit for Single Family Dwelling Landscape depending on the complexity or scope of the proposed project; whether the project is in conjunction with construction of a new single family dwelling; and whether the Member is in Good Standing.

Form of Performance Deposit- All deposits shall be posted by the Owner. The Performance Deposit shall be made out to and delivered to the BSOA in cash, by personal check, certified or cashier's check or by wire transfer. Wire transfer instructions can be requested from the BSOA office. The BSOA does not accept Letters of Credit, Certificates of Deposit, or Surety Bonds.

Deadline for Posting- Performance deposits shall be posted prior to any Construction Activity commencing on the Property.

Interest- Owners do not accrue interest with regard to posted Performance Deposits. Any interest that may accrue will accrue to the BSOA and not to the Owner. Interest accrued shall be deposited with the BSOA and used at the discretion of the Board.

Deposit Categories- Upon review of an Owner's application to the BSAC, Staff shall have the discretion to determine which deposit category applies at any stage of the review process; however, an Owner may request in writing to the BSAC that their project be re-categorized.

Single Family Dwelling Landscape- Landscaping associated with the construction of a new Single Family Dwelling or an existing Single Family Dwelling or can include but is not limited to: selective clearing of vegetation; test pits, geotechnical investigations, the installation of permanent features (i.e., driveways, berms, significant clearing of vegetation, viewing platforms); or other activities that the BSAC in their discretion deem to fall under this category. This deposit is posted independent of and in addition to the Single Family Dwelling Construction Performance Deposit (as applicable).

Condominium or Commercial Landscape- Landscaping associated with the construction of a new condominium or commercial building or an existing condominium or commercial building or can include but is not limited to: selective clearing of vegetation; test pits, geotechnical investigations, the installation of permanent features (i.e., driveways, berms, significant clearing of vegetation, viewing

platforms); or other activities that the BSAC in their discretion deem to fall under this category. This deposit is posted independent of and in addition to the any applicable construction deposit (i.e., Single Family Condominium, Multi-Family Dwelling and Commercial Performance Deposits).

Single Family Dwelling Construction- Construction Activity with regard to construction of a Single Family Dwelling.

Single Family Condominium Construction- Construction Activity with regard to construction of a Single Family Condominium. Should an Owner decide to build a Single Family Condominium project in phases and the BSAC approves, the Owner shall be required to post the landscaping deposit in an amount based on the total number of Dwelling Units; however, an Owner will only be required to post a deposit for the Dwelling Units that will be constructed for that phase.

Multi-Family Dwelling Construction- Construction Activity with regard to construction of a Multi-Family Dwelling Building. Should an Owner decide to build a Multi-Family Dwelling project in phases and the BSAC approves, the Owner shall be required to post the landscaping deposit in an amount based on the total number of Dwelling Units; however, an Owner will only be required to post a deposit for the Dwelling Units that will be constructed for that phase.

Commercial Construction- Construction Activity with regard to construction of a Commercial building.

Additions or Major Renovations- any Construction Activity that involves the construction or creation of new or additional square footage, removal of multiple exterior walls, addition of multiple exterior walls, or construction of a new structure or modification of an existing structure using a new or an existing foundation.

Minor Alterations, Improvements, and/or Repairs- Projects include but are not limited to repairing siding, and decks, painting, roof repairs, landscape alterations and/or propane tank installations; however, if the improvements listed in this paragraph are deemed by Staff, in their sole discretion, to be substantial then the project may be categorized as a Major Renovation.

Waiver- An Owner may request in writing from the BSAC a waiver to the requirement to post the Performance Deposit. The BSAC will review the request at its next regularly scheduled meeting for which there is quorum and make its determination on whether or not to waive the Performance Deposit. Waivers are made in extremely rare cases and at the sole discretion of the BSAC. The BSAC may consider the following criteria:

- 1) The Owner is a non-profit corporation and its proposed project will benefit the Membership;
- 2) The Owner is a utility or a governmental entity and its proposed project will benefit the Membership;
- 3) The Owner has shown good cause as for why the Performance Deposit should not be posted; or
- 4) Other criteria as determined by the BSAC.

Release- The Performance Deposit shall not be released until the project is Substantially Complete and in Substantial Conformance with the approved Final Plan. Upon Substantial Completion, the Owner shall request in person, via e-mail or in writing that Staff conduct an onsite Aesthetic Review of the project. Staff will conduct such Aesthetic Review within a reasonable amount of time, not to exceed forty-five (45) business days, of receiving the notice, weather permitting. Staff will only complete an Aesthetic Review if in their discretion, all components of the Construction Activity can be reviewed (i.e., review of the landscaping or exterior is not prohibited by snow coverage). Staff will notify the Owner in person, via e-mail or in writing if an Aesthetic Review cannot be completed. Performance Deposits are only released to the Owner.

Partial Release- Should an Owner desire that a portion of their Performance Deposit be released prior to Substantial Completion of the project, such request shall be made in writing to the BSAC and will be discussed and reviewed at a meeting of the BSAC. Staff does not have the authority to authorize a partial release. Performance Deposits are only released to the Owner.

Violations- Failure of an Owner to Substantially Complete their project in Substantial Conformance with the approved Final Plan or for violations of any Governing Document during the Construction Activity will be handled pursuant to the BSOA Enforcement Resolution jointly adopted by the BSOA and BSAC on April 16, 2010 and effective May 1, 2010 or as subsequently amended ("Enforcement Resolution"). Bond forfeiture as that term is used in the Enforcement Resolution will also refer to forfeiture of an Owner's Performance Deposit.

Meetings and Approvals

BSAC Agenda- projects will not be placed on a BSAC agenda for review until all required information is received by Staff. Owners or their Designated Project Representative must submit the required information no later than close of business, ten (10) days prior to the BSAC meeting for which review is requested. Staff has the discretion to determine that the required information has been received and place the project on the agenda for review.

Owner Attendance at Meetings- An Owner or their Designated Project Representative must be in attendance in person at the BSAC meeting in which they have an item on the agenda. Staff has the discretion to permit Owner attendance via telephone when it would be a hardship for the Owner to attend in person. Staff or a BSAC committee member cannot be an Owner's representative unless it is their own project, in which case the BSAC committee member will recuse themselves from voting on their project. If an Owner's project is placed on the agenda and their attendance is expected at the meeting but they or their Designated Project Representative is not in attendance, the BSAC will not review the project and it will be tabled to the next BSAC meeting pending quorum.

An Owner Applicant must be in good standing, as defined in the Amended and Restated Bylaws for the Big Sky Owners Association. Each registered Owner of any Unit(s) or properties who is in violation of the BSOA Governing Documents, resolutions, policies or of covenant compliance; or not current on the payment of assessments, or any other payments deemed due and owing to the Association (including but not limited to design review fees, performance deposits and fines) will be deemed by the Board to be a member who is not in good standing. If an Owner Applicant is deemed to

be not in good standing, the BSAC may deny architectural project review and/or require the Owner Applicant to be brought into good standing prior to initiating architectural project review.

Condominium Projects- An individual condominium Owner who submits for a project that would modify the exterior of their condominium unit must first obtain approval from their condominium association prior to BSAC review of their project. The approval must be in writing in the form of a letter of approval signed by an authorized officer of the condominium association or a copy of an approved set of meeting minutes by which the project is approved by the condominium association and be submitted with the Owner's application to the BSAC. A condominium association that submits a project for their association must also submit a written letter of approval signed by an authorized officer of the condominium association or a copy of an approved set of meeting minutes by which the project is approved by the condominium association and be submitted with their application to the BSAC.

Time for Completion

Lapse of Final Approval – Final approval of the project is valid for one year from the date of the BSAC meeting in which approval was granted as reflected in the meeting minutes. After one year has lapsed from the date Final approval, a resubmittal will be required in order to move forward with the project. The resubmittal will require a complete new application and review fee.

Lapse of Sketch Approval – Sketch approval of the project is valid for one year from the date of the BSAC meeting in which approval was granted as reflected in the meeting minutes. After one year has lapsed from the date of Sketch plan approval, a resubmittal will be required in order to move forward with the project. The resubmittal will require a complete new application and review fee.

Project Completion Deadline- the deadline for completion begins from the date the Performance Deposit is posted to the BSOA's account. The time for completion is governed by the applicable Declaration or condominium declaration and if no time for completion is specified then the BSAC shall establish the time for completion.

Extensions- The BSAC's decision to grant any extension will be governed by any restrictions in the applicable Declarations or condominium declaration. In addition, the BSAC is not obligated to grant any extension. Staff has not been delegated the right to grant extensions. An Owner may request from the BSAC an extension to their project completion deadline. Such request must be made in writing to the BSAC forty-five business (45) days prior to the current project completion deadline. The BSAC will review such request at its next meeting for which there is quorum. Failure to apply for an extension may result in total or partial forfeiture of the Performance Deposit or the BSAC may instate procedures under the Enforcement Resolution.


Request for Reconsideration

All decisions of the BSAC are final; however, an Owner can appeal in writing to the BSAC to reconsider its decision. Any request for reconsideration must be made in writing within ten (10) business days of the BSAC's decision and be delivered by certified mail to the BSOA office. The BSAC will consider the request at a regularly scheduled meeting, for which there is quorum, within


forty-five (45) business days from the date the request was received. The BSAC will then in writing affirm, modify or withdraw its decision within twenty (20) business days after the meeting.

The Resolution's revisions and approval thereof, were reconfirmed, DATED this 18th day of August, 2023.

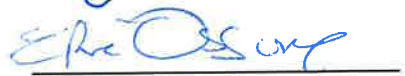
**BOARD OF DIRECTORS
BIG SKY OWNERS ASSOCIATION, INC.**




George Mueller, Chair



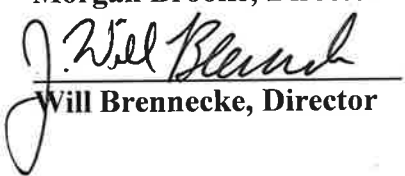
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