

**BY-LAWS
OF
POWDER HORN MOUNTAIN PROPERTY OWNERS' ASSOCIATION, INC.**

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ARTICLE I

Identification

Section 1. Name. The name of this corporation is **POWDER HORN MOUNTAIN PROPERTY OWNERS' ASSOCIATION, INC.**, referred to herein for convenience as the "**POA.**"

Section 2. Definitions. The following terms are used as here defined in these By-Laws:

- a) "**Articles**" means the articles of incorporation of POWDER HORN MOUNTAIN PROPERTY OWNERS' ASSOCIATION, INC.
- b) "**Board**" means the Board of Directors of POWDER HORN MOUNTAIN PROPERTY OWNERS' ASSOCIATION, INC.
- c) "**By-Laws**" means the By-Laws of POWDER HORN MOUNTAIN PROPERTY OWNERS' ASSOCIATION, INC.
- d) "**Committee**" means the *Aesthetics and Environmental Control* Committee as defined in these By- Laws, Article V, Section 11 and other such committees approved by the Board in Article II, Section paragraph i.
- e) "**Common Property**" means all of the real property either dedicated to the owners' use and enjoyment by reference on recorded plats or owned by the POA or by the Powder Horn Mountain Property Owners Association, Inc., a North Carolina nonprofit corporation, together with such improvements which may be constructed thereon. "Common property" includes a clubhouse, chapel swimming pool, tennis court, volleyball court, lakes, roads, and designated campground, picnic areas and green areas, buffer zones, and various other buildings and shelters, or other areas needed for the storage of fire-fighting and general maintenance equipment owned, leased, rented, borrowed, or otherwise kept by the POA for the purpose of exercising its duties to maintain and protect property within the Mountain; and all that property described in a deed recorded at Book of Records 145, Page 422, Watauga County Public Registry. "Common Property" may also include any property hereafter

acquired and improvements, which may be constructed thereon.

- f) **"Declaration"** means the "Declaration of Restrictive Covenants" recorded in Book 0600, Page 825 in the office of the Register of Deeds in Watauga County, North Carolina, along with such amendments as may from time to time be duly recorded.
- g) **"Green Area"** means unimproved real property owned by the Powder Horn Mountain Property Owners Association but removed from the possibility of future development, and may include both platted lots and unsubdivided land.
- h) **"Improvements"** means all buildings or other structures of any type or kind, fences, walls, barriers, roads, driveways or parking areas.
- i) **"Lot"** means any numbered-lot designated on the plats found in record Book 188, Page 464 in the office of the Register of Deeds in Watauga County, North Carolina, or in other books and pages therein referenced.
- j) **"Member"** means any member of POWDER HORN MOUNTAIN PROPERTY OWNERS' ASSOCIATION, INC., as defined in these By-Laws. "Member in good standing" means a member who has paid outstanding assessments, along with any applicable late payment charges.
- k) **"Mountain"** means all that real property situated in the County of Watauga, State of North Carolina, described in the Supplemental Declaration (Book 119, Page 396; Book 217, Page 875; Book 226, Page 013) as Powder Horn Mountain, a subdivision of Watauga County, North Carolina.
- l) **"Owner"** means any person or legal entity holding fee simple title to any lot or parcel within the Mountain as defined in (k) above.
- m) **"Parcel"** means any tract of land shown on the Plat as being within the boundaries of Powder Horn Mountain but not indicated as a numbered lot.
- n) **"Plat"** means the maps or plats of the Mountain as they are from time to time recorded upon the books of Watauga County, North Carolina.
- o) **"POA"** means POWDER HORN MOUNTAIN PROPERTY OWNERS' ASSOCIATION, INC., a North Carolina non-profit corporation.

Section 3. Principal office. The principal office of the POA shall be in Watauga County,

North Carolina, or such specific other location in North Carolina as may be, from time to time, designated by the Board of Directors ("Board").

ARTICLE II

Purposes and Powers

Section 1. Purpose. The purposes for which POWDER HORN MOUNTAIN PROPERTY OWNERS' ASSOCIATION, INC. is organized are to further and promote the common interests of POA members within POWDER HORN MOUNTAIN ("Mountain"), a planned development subdivision located in Watauga County, North Carolina, and in connection therewith to own, maintain, operate, or provide for the operation of common properties of all kinds for the use, enjoyment and benefit of its Members.

Section 2. Powers. The POA shall do whatever is necessary, conducive, incidental or advisable to accomplish and promote its purposes and, in connection therewith, shall have, but shall not be limited to, the following powers:

- a) To acquire real or personal property by purchase, gift or other means.
- b) To own, hold, enjoy, lease, operate, maintain, convey, sell, assign, transfer, mortgage, or otherwise encumber, or dedicate for public use, any real or personal property owned by it.
- c) To exercise the powers and functions granted to it in the recorded subdivision Declaration of Covenants and Restrictions affecting property on the Mountain.
- d) To own, construct, maintain and operate community facilities of all kinds within the Mountain, to prescribe the use thereof and to contract for the maintenance, operation and management thereof.
- e) To care for vacant, unimproved or unkempt lots within the Mountain.
- f) To regulate, maintain, rebuild, repair, beautify and otherwise care for all streets and roads within the Mountain not subject to regulation or maintenance by governmental authority.
- g) To pay taxes levied on any property owned by the POA.

- h) To enforce charges, easements, restrictions, covenants, conditions and agreements existing upon or created for the benefit of the real property within the Mountain.
- i) To appoint such committees as may be necessary to, or convenient in, the discharge of any of its obligations or powers.
- j) To levy charges upon Members and to declare the same against the property subject thereto in accordance with the recorded subdivision restrictions relating to the Mountain.
- k) To pursue all legally accepted remedies to collect any charges not paid and, in connection therewith, to foreclose any granted to it.
- l) To borrow money and contract debt and evidence the same by the issuance of bonds, notes or debentures, either secured or unsecured.
- m) To expend its money for the payment and discharge of all proper costs, expenses and obligations incurred in carrying out its purposes and objectives pursuant to these powers.
- n) To contract and pay premiums for fire, casualty, liability and other insurance, including indemnity and other bonds.
- o) To contract for the management by others of the POA's facilities and pay for maintenance, security, gardening, utilities, materials, supplies, and services relating to property owned or operated by it and to employ personnel reasonably necessary for the administration of its affairs, including legal counsel and accountants.
- p) To manage, offer for rent or offer for sale any real property and improvements to such property located within the Powder Horn Mountain Subdivision with the express permission and for the benefit of the property owner.
- q) To maintain, enforce, and amend the Declaration of Restrictive Covenants for Powder Horn Mountain Subdivision, and
- r) To do all other acts necessary or expedient for the administration of its affairs and the attainment of its purposes not otherwise inconsistent with or in contravention of the laws of the State of North Carolina from time to time

existing pertaining to corporations not for profit.

ARTICLE III

Membership

Section 1. Determination. The membership of the POA is limited to persons or legal entities that are owners of lots or parcels in the Mountain. Members in good standing are those members who shall have paid outstanding assessments owed to POWDER HORN MOUNTAIN PROPERTY OWNERS' ASSOCIATION, INC., including such interest charges as may have been authorized by vote of the POA.

Section 2. Rights and Privileges. The rights of Members shall be equal for all purposes. All Members in good standing and their guests shall have and enjoy the use of all properties owned by the POA, subject to provisions of any recorded restrictions affecting such properties and subject to such other rules and regulations for the use thereof as may be adopted from time to time by the Board and published, posted, or otherwise made available for information and review by Members. Rules and regulations applicable to Members are also applicable to their guests.

Section 3. Evidence of Membership. The POA has no capital stock and shares therein shall not be issued. Membership status in the POA may be evidenced by certificates of membership, identity cards, or other written documentation; but failure to do so shall in no way alter or affect the rights, privileges, or obligations of membership. Such evidence of membership shall be issued over the signature, or facsimile signature, of any authorized officer. All vehicles belonging to members will have a permanently fixed decal as evidence of member ownership.

Section 4. Membership Roll. A roll shall be maintained by the POA containing sufficient data to determine the name and address of Owners of property on the Mountain and a designation of the Owner's lot or parcel within the Mountain. The POA may utilize and rely on the tax rolls of Watauga County, North Carolina, for the obtaining of information deemed pertinent to its records. The POA shall keep a list of Members in good standing, with the number of lots owned by each and indicating which Owners are current in payment of assessments for their lots.

Section 5. Transfer. Membership in the POA is transferable only upon the conveyance

or other disposition of legal or equitable title of the lot or parcel on the Mountain and is contingent upon payment of outstanding assessments owed to POWDER HORN MOUNTAIN PROPERTY OWNERS' ASSOCIATION, INC., and accrued on the property, including interest or penalty for late payment.

ARTICLE IV

Meetings of Members

Section 1. Place of Meetings. Meetings of Members of the POA shall be held in the County of the POA's principal office in the State of North Carolina at such particular place therein as stated in the notice for such meeting.

Section 2. Annual Meeting. The annual meeting of the Members of the POA for the election of directors and for the transaction of such other business as may properly come before said meeting shall be held at such hour and on such day during July of each year as- shall be determined by the Board.

Section 3. Notice. Written notice of each annual meeting shall be given to each Member either by personal delivery, by mail, or other means of written communication, charges prepaid, addressed-to such Member at his or her recorded address appearing on the books of the POA. All such notices shall be sent to each Member entitled thereto not less than ten (10) and not more than sixty (60) days before each annual meeting and shall specify the place, the date, and the hour of such meeting, along with the agenda or proposals to be considered or acted upon at such meeting.

Section 4. Special Meetings. Special meetings of the Members for any purpose or purposes whatsoever may be called at any time by the POA President, by a majority of the Board, or by not fewer than ten percent (10%) of the Members (at their personal expense) and entitled to vote and representing at least 10% of the registered property owners. Except in special cases where other express provision may be made by statute, notice of such special meetings shall be given in the same manner as for annual meetings of Members. Notices of any special meeting shall specify, in addition to the place, date, and hour of such meeting, the agenda of the meeting. No business may be transacted at a special meeting except that directly pertinent to the announced agenda of the special meeting.

Section 5. Adjourned Meetings and Notice Thereof. Any members meeting, annual or special, whether or not a quorum is present, may be adjourned from time to time by the vote of a majority of the voting power present either in person or represented by proxy thereat but in the absence of a quorum no other business may be transacted at such a meeting. When any Members' meeting, either annual or special, is adjourned for thirty (30) days or more, notice of the adjourned meeting shall be given as in the case of an original meeting; otherwise, it shall not be necessary to give any notice of the business to be transacted thereat, other than by announcement at the meeting at which such adjournment is taken.

Section 6. Quorum. The presence at any meeting, in person or by proxy, of members entitled to twenty-five per cent (25%) of votes (one vote being eligible for each lot for which assessments have been paid) shall constitute a quorum for the transaction of business, provided that at least seventy-five (75) different Owners are either present or voting by proxy. The Members present at a duly called or held meeting at which a quorum is present may continue to do business until adjournment, notwithstanding the withdrawal of enough Members to leave less than a quorum. If any meeting, annual or special cannot be held for lack of a quorum, the same may be adjourned, as hereinafter provided, for a period of time not less than two (2) hours nor more than thirty (30) days from the time the original meeting was called, at which adjourned meeting the quorum requirement shall be reduced to the presence in person or by proxy of not less than fifteen per cent (15%) of eligible votes representing at least forty (40) different members.

Section 7. Voting. There shall be only one (1) vote per assessed lot regardless of joint or co-ownership. Only Members in good standing and who now appear on the records of the POA on the record date for voting purposes, fixed as provided in ARTICLE VII, Section 1, of these By-Laws, shall be entitled to vote. Voting may be by voice vote, raised hand or written ballot.

Section 8. Proxies. Every Member entitled to vote or execute consents shall have the right to do so either in person or by an agent or agents authorized by a written proxy or power of attorney executed by such Member or such Member's duly authorized agent and filed with the Secretary of the POA.

ARTICLE V

Board of Directors

Section 1. Powers. Subject to any limitations of the Articles of Incorporation of POWDER HORN MOUNTAIN PROPERTY OWNERS' ASSOCIATION, INC., of these By-Laws, all corporate powers of the POA shall be exercised by or controlled by a Board of Directors, without prejudice to such general powers, but subject to the same limitations, it is hereby expressly declared that the Directors shall have the following powers:

- a) To select and remove all officers, agents and employees of the POA and prescribe such powers and duties for them as may be consistent with law, with the Articles of Incorporation and By-Laws.
- b) To conduct, manage and control the affairs and business of the POA or any of its facilities or properties and to make such rules and regulations thereof as are consistent with law, with the Articles of Incorporation, these By-Laws and other-policies voted by the membership of the POA;
- c) To ensure that financial records are maintained and/or certified annually by a Certified Public Accounting firm.
- d) To change the principal office for the transaction of the business of the POA from one location to another as provided in Article I, Section 3, hereof, to designate the place for the holding of Members' meetings; and to adopt and use a corporate seal;
- e) To exercise the voting rights of the POA owned lots.
- f) To take such steps as may be necessary to implement any of the powers of the POA enumerated in Article II, Section 2, hereof,
- g) To amend these By-Laws, as provided in Article X thereof; and
- h) To appoint committees and to delegate thereto its powers and authority in the management of the business and affairs of the POA and its property as provided in Article II, Section 2, paragraph (i).

Section 2. Number and Qualifications. The authorized number of Directors shall be nine (9). Only members in good standing may serve as Directors.

Section 3. Election and Term of Office. At the annual meeting of Members, Board

Members shall be elected; with terms so arranged that one-third of such terms expires in each subsequent year. At each annual meeting of Members, Directors shall be elected to fill the vacancies of those members whose terms have expired. Except in the case of resignation or removal, all Board members shall hold office until their respective successors are elected either at the annual meeting of Members or at any special meeting of Members held for that purpose. The Board shall fix the manner of nomination of Directors to be elected at an annual meeting or by mailed ballot and include nominees with the notice of said annual meeting or request for such ballot. Board members may only be removed from the Board of Directors by a majority vote of the POA Membership.

The Directors shall be elected at the annual meeting of membership, and those persons who receive the highest number of votes shall be deemed to have been elected. If any member so demands, election of Directors shall be by secret ballot. The Board may also determine that elections of Directors may be held pursuant to mailed ballot where the agenda of the annual meeting of Members may be such to justify the use of such method for elections as opposed to a meeting called for such purpose. Elections by mailed ballot shall be effective only if ballots are mailed to all Members entitled to vote and if the total number of Members returning ballots is equal to or exceeds the voting power of the POA required to constitute a quorum at any meeting duly called. Terms of successor Directors elected by the Members shall be for three (3) years. Terms of Directors appointed by the Board may be for any term less than three (3) years, in-as-much that at least one-third (1/3) of the Directors will be elected annually by the Members.

Section 4. Vacancies. Vacancies on the Board may be filled by a majority vote of the remaining Directors though less than a quorum, and each member so appointed shall hold office until a successor is elected by the Members as herein provided. A vacancy or vacancies in the Board shall be deemed to exist in case of the death, resignation, or removal of any Director, if the authorized number of Directors is increased, or if the Members fail to elect the full number of Directors to be voted for in any election.

Section 5. Regular Meetings. Immediately following each annual meeting of Members, or if none is held then following the election of Directors by mailed ballot, the Board shall hold a regular meeting for the purpose of organization and the transaction of other

business. Call and notice of such meetings are hereby dispensed with. Further regular meetings of the Board shall be held within sixty (60) days of the annual meeting (or completion of mailed ballot for election) and at least once per quarter thereafter at a regular time and place made known to all Members. Board Members are expected to attend the majority of regular meetings or they will be subject to removal by the Board.

Section 6. Special Meetings. Special meetings of the Board may be held at any time and for any purpose upon call by the President or, if the President is absent or unable or refuses to act, by the Vice President or by any two (2) Directors. Notice of the time and place of special meetings shall be given not less than 48 hours in advance and/or in a timely and appropriate fashion, to each Director. Actions taken by a special meeting without such notice shall not be valid unless all absent Directors subsequently agree in writing to them.

Section 7. Quorum. A majority of the Directors shall be necessary to constitute a quorum for the transaction of business, except to adjourn as hereinafter provided, or to fill vacancies on the Board as provided in Section 4 of this Article. Every act or decision done or made by a majority of the Directors present at a meeting, duly held at which a quorum is present, shall be regarded as the act of the full Board unless a greater number be required by law.

Section 8. Adjournment and Notice. A quorum of the Board may adjourn any Board meeting to meet again at a stated day and hour; provided, however, that in the absence of a quorum, a majority of the Directors present at any Board meeting, either regular or special may adjourn from time to time until the time fixed for the next regular meeting of the Board. Notice of the time and place of holding an adjourned meeting need not be given to absent Directors if the time and place be fixed at the meetings adjourned.

Section 9. Open and Closed Meetings. Each regular meeting of the Board shall, and any special meeting may, be open to such Members as wish to attend, with the exception that the Board may declare part of any meeting to be a closed executive session. Each regular meeting of the Board shall, and any special meeting may, offer an opportunity for Members to raise questions or otherwise to bring matters to the attention of the Board.

Section 10. Indemnification Against Liability. The Corporation shall indemnify and

hold harmless each person who shall serve at any time hereafter as director or officer of the Corporation from and against any and all claims and liabilities to which such person shall become subject by-reason of his or her having heretofore or hereafter been a director or officer of the Corporation, or by reason of any action alleged to have been heretofore or hereafter taken or committed by him or her as such director or officer; shall reimburse such person for all legal and other expenses reasonably incurred by him or her in connection with any such claim or liability; provided, however, no such person shall be indemnified against or reimbursed for any expense incurred in connection with any claim or liability arising out of his or her own negligence, unlawful conduct, or illegal act.

The rights accruing to any person under the foregoing provision of this Section shall not exclude any other rights to which he or she may be lawfully entitled; nor shall anything herein contained restrict the right of the Corporation to indemnify or reimburse such person in any proper case, even though not specifically provided for herein. The Corporation, its directors, officers, employees and agents shall be fully protected in taking any action or making any payment under this Article V of Section 1, entitled "Board of Directors," or in refusing so to do, in reliance upon the advice of counsel.

Section 11. Aesthetics and Environmental Control Committee. The Board shall appoint an Aesthetics and Environmental Control Committee as envisioned in Article VI of the Declaration of Restrictive Covenants or, such appointment not having been made, itself serve as the Committee. Said Committee shall be appointed by the Board and all of whom shall be members in good standing of POWDER HORN MOUNTAIN PROPERTY OWNERS' ASSOCIATION, INC. The Operations Manager, if any, shall be a standing member of the Committee and the keeper of all official records for the Committee. Members of the Committee shall be subject to removal with or without cause or prior notice by the Board. Any existing vacancies on the Committee shall be filled at the discretion of and action by the Board.

ARTICLE VI

Officers

Section 1. General. The officers of the POA shall be a President, a Vice President, a Secretary, and a Treasurer, each of whom shall be elected by the Board. The POA may

also have such other officers, including one or more Assistant Secretaries and Assistant Treasurers, as may be appointed by the Board. Officers other than the President, the Vice-President, and the Secretary need not be Directors. One person may hold two or more offices, except those of President and Secretary.

Each officer shall hold office until resignation, removal, disqualification, or election of a successor. The Board for the purpose of initially filling an office or filling a newly created or vacant office may elect officers at any time.

Section 2. Removal and Resignation. Any officer may be removed from office, either with or without cause, by action of the Board. Resignation of officers shall take effect at the date of the receipt thereof 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 3. Vacancies. A vacancy in any office because of death, resignation, removal disqualification or any other cause shall be filled in the manner prescribed in these By-Laws, Article V, Section 4.

Section 4. President. The President shall be elected by the Board and shall be the chief executive officer of the POA. Subject to the control of the Board, the President shall have general supervision, direction and control of the business of the POA. The President shall preside at all meetings of the Members and of the Board. The President shall be an ex officio member of all standing committees. The President shall have the general powers and duties of management as may be prescribed by the Board or these By-Laws.

Section 5. Vice-President. In the absence or disability of the President, the Vice-President shall perform all the duties of the President and, when so acting, shall have all the powers of and be subject to all the restrictions upon the President. The Vice-President shall have such other powers and perform such other duties as may be prescribed by the Board and make reports to the general membership.

Section 6. Secretary. The Secretary shall keep or cause to be kept, at the principal office of the POA or such other place as the Board may order, a book of minutes of all meetings of the Board and of POA Members, or a duplicate thereof. The Book of Minutes shall include the time and place of meetings held, whether regular or special notice thereof given. The names of those present at Board meetings and the number of members present

or represented at Members' meetings, and the proceedings thereof shall also be included.

The Secretary shall keep, or cause to be kept, at the principal office or such other place as the Board may order, the membership roll or register referred to in Article III, Section 4 hereof.

The Secretary shall give, or cause to be given, notice of all the meetings of the Members and of the Board required by law or by these By-laws to be given; and shall have such other powers and perform such other duties as may be prescribed by the Board.

Section 7. Treasurer. The Treasurer shall keep and maintain, or cause to be kept and maintained, adequate and correct accounts of the properties and business transactions of the POA, including accounts of its assets, liabilities, receipts and disbursements. The books of account shall be open to inspection by any Director. The record of each Member's assessment is considered to be Confidential Information and shall be available only to Board Members, the individual member and the bookkeeper/auditor. Copies of these records will only be released with express written permission to the Board from the individual member. Any expense incurred will be the responsibility of the requesting member. The Treasurer shall deposit, or cause to be deposited, all moneys and other valuables in the name of and to the credit of the POA with such depositories as may be designated by the Board. The Treasurer shall disburse, or cause to be disbursed, the funds of the POA as may be ordered by the Board. The Treasurer shall render to the President and Board members upon request an account of all transactions of the POA and of its financial condition. The Treasurer shall have such other powers and perform such other duties as may be prescribed by the Board. Annual accounting. The Treasurer shall transmit or cause to be transmitted, an annual report and account, including a statement of income and disbursements, to the Members not later than one hundred twenty (120) days after the close of the POA's fiscal year.

ARTICLE VII

Assessments

Section 1. General. The POA shall have the power to levy annual and special assessments as herein set forth and as referenced in Article V of the Declaration of Restrictive Covenants. All assessments shall be prepaid on an annual basis or paid to the

POA in installments as may be determined by the Board.

Section 2. Fiscal year. The fiscal year of the POA shall be from July 1 of each calendar year through June 30 of the next.

Section 3. Annual assessment: See Article V, Section (B) of the Declaration of Restrictive Covenants.

Section 4. Special assessments: See Article V, Section (C) of the Declaration of Restrictive Covenants.

Section 5. Notice: See Article V, Section (D) of the Declaration of Restrictive Covenants.

Section 6. Suspension: See Article V, Section (E) of the Declaration of the Restrictive Covenants.

Section 7. Enforcement: See Article V, Section (F) of the Declaration of Restrictive Covenants

ARTICLE VIII

Miscellaneous

Section 1. Record Date. The Board may fix a time in the future as a record date for the determination of Members entitled to notice of ballot. The record date so fixed shall not be more than thirty (30) days prior to the date of the meeting or election. When a record date is so fixed, only Members of record on that date shall be entitled to notice of and to vote at the meeting or election, notwithstanding any change of membership status after the record date.

Section 2. Inspection of Records. The membership roll or register or a duplicate thereof, the books of account and minutes of proceedings of the Members, the Board, and any committee shall be open to inspection upon the written request of any Member at any reasonable time and for a purpose reasonably related to the Member's interests.

Section 3. Checks and Drafts. All checks, drafts or other orders for payment of money, notes or other evidences of indebtedness issued in the name of or payable to the POA shall be signed or endorsed by two authorized persons and in such manner as, from time to time, shall be determined by resolution of the Board.

Section 4. Annual Accounting. An annual report and account, including a statement of

income and disbursements, shall be made available to the Members not later than one hundred twenty (120) days after the close of the POA's fiscal year.

Section 5. Execution of Contracts. The Board, except as may be otherwise provided in these By-Laws, may authorize any officer or officers, agent or agents, to enter into any contract or execute any instrument or document in the name of and on behalf of the POA and such authority may be general or confined to specific instances, provided the limits established by the budgets are not exceeded. Unless otherwise specifically determined by the Board or otherwise required by law, formal contracts, promissory notes and other evidences of indebtedness, mortgages and other corporate instruments or documents requiring the corporate seal shall be executed, signed or endorsed by the President. In case of vacancy in the office of President, by the Vice President and by the Secretary or the Treasurer.

Section 6. Inspection of By-Laws. The POA shall keep in its principal office for the transaction of business a copy of the By-Laws certified by the Secretary as being accurate and containing such amendments as may from time to time have been made, which shall be open to inspection by Members at all reasonable times.

ARTICLE IX

Policy on Enforcement of Covenants and By-Laws

Section 1. Enforcement. The responsibility for compliance with the By-Laws and Restrictive Covenants and By-Laws rests with the POA member. The Board of Directors will enforce the requirements of the Restrictive Covenants and By-Laws through appropriate sanctions against the appropriate member, and as described below.

Section 2. Procedures for Fines and Suspension of Planned Community Privileges or Services. *Unless a specific procedure for the imposition of fines or suspension of planned community privileges or services is provided for in the declaration, a hearing shall be held before an adjudicatory panel appointed by the executive board to determine if any lot owner should be fined or if planned community privileges or services should be suspended pursuant to the powers granted to the association in G.S. 47F-3-102(11) and (12). If the executive board fails to appoint an adjudicatory panel to hear such matters, hearings under this section shall be held before the executive board. The lot owner*

charged shall be given notice of the charge, opportunity to be heard and to present evidence, and notice of the decision. If it is decided that a fine should be imposed, a fine not to exceed one hundred fifty dollars (\$150.00) may be imposed for the violation and without further hearing for each day after the decision that the violation occurs. Such fines shall be assessments secured by liens *under G.S. 47F-3-116*. If it is decided that a suspension of *planned community* membership privileges or services should be imposed, the suspension may be continued without further hearing until the violation or delinquency is cured. (Reference Planned Community Act (§ 47F-3-107.1.)).

Section 3. Guidelines for Fines. The Board will be fair, reasonable and consistent in enforcement of the Restrictive Covenants and By-Laws, taking into account the situation, how it affects PHM in general and nearby property in particular, the consequences should the offense become one of a more generalized nature, how other similar acts have been handled since this policy was adopted, and the degree to which the member has attempted to mitigate the situation. The Board does not insert itself into dispute between members. The Board will not enforce against criminal acts, but will refer all criminal matters to the appropriate law enforcement department.

For ongoing Situations: The Board will typically first advise the member in writing. If the situation is not rectified after a reasonable time, a fine of up to \$150 may be imposed. If still not corrected after a reasonable time, a fine of up to \$150 per day may be imposed.

Past Situations: This applies to one-time events such as the unauthorized cutting of trees. A fine of up to **\$10,000** may be imposed.

Repeat Offenses: If the member repeats the same or similar in the future, the Board will pursue the matter through appropriate legal channels.

ARTICLE X

Amendments

New By-Laws may be adopted or these By-Laws may be amended or rescinded by 2/3 majority of the active Board. The members may adopt new By-Laws, amend or rescind these By-Laws by a 2/3-majority vote in a meeting called as per Article IV.

Being duly elected by the Members of the POWDER HORN MOUNTAIN PROPERTY OWNER'S ASSOCIATION, INC. and appointed Secretary by the now current Board of Directors, I do hereby Certify the foregoing document to be a true and accurate copy of the POWDER HORN MOUNTAIN PROPERTY OWNER'S ASSOCIATION, INC. By-Laws and as such, they contain all amendments which have from time to time been made.

By:

_____(SEAL)

SECRETARY SIGNATURE

Date: _____ (Corporate Seal)

Printed Name of Secretary

STATE OF NORTH CAROLINA

COUNTY OF WATAUGA

I, _____, a Notary Public for said County and State, do hereby certify that _____ personally came before me this day and acknowledged that she is _____ of _____ and acknowledged, on behalf of _____, the due execution of the foregoing instrument.

Witness my hand and official seal, this the _____ day of _____, 20____.

(Official Seal)

Notary Public

My commission expires: _____, 20____.