

**AMENDED AND RESTATED BYLAWS OF
POWDER HORN MOUNTAIN PROPERTY OWNERS' ASSOCIATION, INC.
(As Last Amended on June 14, 2014)**

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ARTICLE I: IDENTIFICATION

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

Section 2. Definitions. The following terms are used as here defined in these Bylaws:

- (a) "**Articles**" means the Articles of Incorporation of the POA.
- (b) "**Board**" means the Board of Directors of the POA.
- (c) "**Bylaws**" means the Bylaws of the POA
- (d) "**Committee**" means the Aesthetics and Environmental Control Committee as defined in these Bylaws, Article V, Section 11 and other such committees approved by the Board in Article II, Section 2, (i).
- (e) "**Common Property**" means all of the real property within the Mountain other than Lots that is either dedicated to the Owners' use and enjoyment by designation on recorded Plats or in recorded deeds or declarations or else owned by the POA for the purpose of maintaining or improving it as a common amenity, together with such Improvements which may be constructed thereon. "Common Property" includes a clubhouse, chapel, swimming pool, tennis court, volleyball court, lakes, roads, designated campground, picnic areas, 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 includes, but is not limited to, 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 by the POA otherwise designated for the common benefit of the Owners and any future Improvements that may be constructed thereon.

- (f) **"Declaration"** means the "Declaration of Restrictive Covenants" recorded in Book of Records 1378 at Page: 182 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 POA and removed from the possibility of future development, and may include both platted residential Lots and other land.
- (h) **"Improvements"** means all buildings or other structures of any type or kind, and all fences, walls, barriers, roads, driveways or parking areas.
- (i) **"Lot"** means any numbered lot designated on the master Plats found in Plat Book 9, Page 178 or in Plat Book 18, Page 246, in the office of the Register of Deeds in Watauga County, North Carolina, in any approved recombinations or re-divisions of the numbered lots on those Master Plats, or in any other Plats prepared and recorded by any developer of the Mountain or else approved by the POA.
- (j) **"Member"** means any member of the POA, as defined in these Bylaws Article III, Section 1.
- (1) ***"Member in Good Standing"*** means a Member who owes neither any past-due assessments, including any applicable interest and late payment charges, nor any other costs of collection, including attorney's fees, to the POA; and whose Lot or Lots are subject to no such past-due charges that accrued during a previous Owner's period of ownership.
- (2) ***"Member Not in Good Standing"*** means any Member not meeting the criteria set forth in sub-section (1) immediately above.
- (k) **"Mountain"** means Powder Horn Mountain Development and comprises all that real property situated in the County of Watauga, State of North Carolina that has been subjected to the Declaration or placed under the ownership or control of the POA for the common benefit of its Members.
- (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 a Plat as being within the boundaries of the Mountain but not indicated as a numbered Lot.

(n) "**Plat**" means any of 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 nonprofit corporation, successor by merger with Powder Horn Club, Inc. and also known as Powder Horn Mountain POA and Powder Horn Mountain POA, Inc.

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.

ARTICLE II: PURPOSES AND POWERS

Section 1. Purpose. The purposes for which the POA is organized are to further and promote the common interests of POA members within the 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 Declaration or by applicable law.
- (d) To own, construct, maintain and operate community facilities of all kinds within the Mountain, to prescribe the use thereof and to oversee and 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 non-exempt 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 provisions of the Declaration.
- (k)** To pursue all lawful remedies to collect any charges not paid and, in connection therewith, to foreclose any claim of lien or other security interest 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 allocate and disburse funds 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)** In the discretion of the Board, in consultation with the Members, to operate, for the benefit of the Members, a real estate brokerage firm to manage, offer for rent, or offer for sale any real property and Improvements to such property located within the Mountain with the express permission and for the benefit of the property Owner.
- (q)** To maintain, enforce, and, with the approval of the Owners of Lots to which the requisite majority of votes are allocated, amend the Declaration for the Mountain, 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 nonprofit corporations.

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.

Section 2. Rights and Privileges. Except as provided in these Bylaws or by applicable law, 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 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, 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 the POA, and accrued on the property, including

interest or penalty for late payment and any other costs of collection incurred by the POA, including reasonable attorney's fees.

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 June 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 and any 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 Members in Good Standing (at their personal expense) and representing at least 10% of the entitled votes. 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 in Good Standing entitled to cast twenty-five per cent (25%) of votes allocated within the POA and appurtenant to the Lots within the Mountain for which assessments have been timely paid shall constitute a quorum for the transaction of business. 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 still participating. If any meeting, annual or special cannot be held for lack of a quorum, the same may be adjourned 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 Members entitled to cast fifteen per cent (15%) of votes.

Section 7. Voting. There shall be only one (1) vote cast 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 Bylaws, 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 Declaration, the POA's Articles, or of these Bylaws, 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 Board 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.
- (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 applicable law, the Declaration, and other policies approved by the membership of the POA;
- (c) To ensure that the POA's financial records are properly maintained and audited or reviewed 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 Members who have executed proxies to the Board or to any designated representative of the Board, but not for casting votes associated with POA-owned Lots (which are not assessable and do not receive an allocated vote while owned by the POA).
- (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 Bylaws only as provided in Article X hereof; 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 be nominated, elected and eligible to serve as Directors.

Section 3. Election and Term of Office. At the annual meeting of Members, Board members shall be elected generally to three-year terms unless completing an unexpired term of a previous Director, but with the full Board's 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 are expiring. 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. No Director shall be elected to greater than two consecutive 3-year terms of office.

The Board shall fix the manner of nomination of Directors to be elected at an annual meeting and include a slate of nominees with the notice of said annual meeting. Board members may be removed from the Board by the Members only at a meeting called for the purpose of removing the Director(s) and for which the notice of meeting specifies that the removal of the Director(s) is the purpose, or one of the purposes, of the meeting. A Director elected by the Members may also be removed by a two-thirds majority of the Directors then in office, while only the Members may remove a Director appointed by the Board to fill an unexpired term of a Director elected by the Members.

The Directors shall be elected at the annual meeting of Members, 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.

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. Following each annual meeting of Members, the newly-elected and continuing Board members shall hold a brief regular meeting on that date for the purpose of electing officers and organizing the orientation of new Directors. 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 and at least once per quarter thereafter at a regular time and place made known to all Members.

All regular meetings of the Board will be open to the Owners with the exception of issues concerning: confidential information, consultations with an attorney, claims or litigation, real property transactions, employment contracts, and personnel matters and investigations.

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 for non-emergency meetings not less than ten (10) days, and for emergency meetings not less than forty-eight (48) hours, in advance by email, fax, personal delivery, or U.S. mail to each Director. Any action taken at a special meeting without such notice having been provided to all Directors shall not be valid unless all absent Directors subsequently give written consent to such action.

Section 7. Quorum. A majority of the Directors then serving 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-noticed, at which a quorum is present, shall be regarded as the act of the full Board unless a greater number be required by law or by these Bylaws.

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.

(a) Duty to Indemnify. The Corporation: **(1)** shall indemnify and hold harmless each person who shall serve at any time hereafter as a 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 been a Director or officer of the Corporation, or by reason of any action alleged to have been taken or committed by him or her as such Director or officer; and **(2)** shall reimburse such person

for all legal and other expenses reasonably incurred by him or her in connection with any such claim or liability.

(b) Exceptions to Duty to Indemnify. The Corporation shall not indemnify, or reimburse any expense to, any officer or Director in connection with any claim or liability arising out of:

- (1) a proceeding in which the Director or officer was adjudged liable to the Corporation;
- (2) the officer or Director's own intentional, willful or wanton, or reckless misconduct;
- (3) any action or omission:
 - (i) from which the officer or Director derived an improper personal benefit;
 - (ii) as to which the officer or Director failed to conduct himself or herself in good faith;
 - (iii) as to which the officer or Director knowingly or recklessly acted outside the scope of his or her official duties.

The rights accruing to any person under sub-paragraph (a) 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, Section 1, entitled "Board of Directors," or in refusing so to do, in reliance upon the written advice of counsel.

Section 11. Aesthetics and Environmental Control Committee. The Board shall appoint an Aesthetics and Environmental Control Committee as set forth in Article VI of the Declaration or, such appointment not having been made, shall itself serve as the Committee. Said Committee shall be appointed by the Board from among the Members in Good Standing of the POA. The Operations Manager, if any, shall be a standing, non-voting member of the Committee and the custodian of all official records for the Committee. Members of the Committee shall be appointed by the Board and shall be subject to removal by the Board with or without cause or prior notice. 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 members of and elected by the Board. Officers may also include an Assistant Secretary and/or an Assistant Treasurer who need not be Directors. No Board member shall hold more than one office.

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 Bylaws, 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 Bylaws.

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, upon request by the President, shall 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. Upon approval of the minutes of any meeting of the Board or of the membership of the POA, the Secretary shall certify the minutes, and any copies thereof, as true and accurate.

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 Bylaws to be given; and shall have such other powers and perform such other duties as may be prescribed by the Board. Absent other arrangements approved by the Board, the Secretary shall be the officer charged with supervising, and assuring the integrity of, all elections and other votes by the Members.

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. 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.

Section 8. Each officer who is also an elected member of the Board shall have authority to execute, certify, and /or record any approved amendments to the Declaration on behalf of the POA.

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. 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 2 of the Declaration.

Section 4. Special assessments: See Article V, Section 3 of the Declaration.

Section 5. Notice: See Article V, Section 4 of the Declaration.

Section 6. Suspension: See Article V, Section 5 of the Declaration.

Section 7. Enforcement: See Article V, Section 6 of the Declaration.

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.

(a) Records Freely Available. The following POA records shall be made available for inspection and copying upon the written request of any Member at a reasonable time designated by the POA at least five (5) business days following the POA's receipt of the Member's written request and subject to the Member's paying a reasonable charge, covering the costs of labor and material and not exceeding the POA's estimated costs, for producing for inspection or copying any records provided to the Member:

- (1) the Articles or Restated Articles and all amendments to them currently in effect;
- (2) the Bylaws and all amendments to them currently in effect;
- (3) any resolutions adopted by the Members or the Board relating to the number or classification of Directors or to the characteristics, qualifications, rights, limitations, and obligations of Members or any class or category of Members;
- (4) the minutes of all Membership meetings, and records of all actions taken by the Members without a meeting pursuant to statute, for the past three years;
- (5) all written communications to Members generally within the past three years,
- (6) the financial statements, if any, that have been furnished, or would have been required to be furnished to a Member upon demand under G.S. §55A-16-20, during the past three years; and
- (7) a list of the names and business or home addresses of the POA's current Directors and officers.

(b) Other Records. Inspection by a Member of any other POA records available under Article 16 of Chapter 55A of the North Carolina General Statutes shall be allowed as required by law, and subject to the Member's

- (1) giving the POA at least five business days prior written notice of the request for inspection of specified records and agreeing in writing to pay the costs of providing the records for inspection and/or copying; and
- (2) meeting, in the judgment of the majority of either the Board, if it meets within the five business days following the POA's receipt of the request, or else the elected corporate officers of the POA, the statutory requirements that
 - (i) the request be made in good faith and for a proper purpose,
 - (ii) the purpose and requested records be described with reasonable particularity, and
 - (iii) the requested records are directly related to the Member's stated purpose.

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, by appropriate resolution, 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 or Vice-President and may also be attested by either the Secretary or an Assistant Secretary appointed by the Board.

Prior to the execution of a procurement contract involving a POA expenditure greater than \$10,000 for (a) a capital improvement project, (b) non-emergency services, or (c) non-emergency purchases, bids shall be solicited based on consistent bidding specifications. The Board must approve issuance of the contract.

Section 6. Inspection of Bylaws. The POA shall keep in its principal office for the transaction of business a copy of the Bylaws 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 BYLAWS

Section 1. Enforcement. The responsibility for compliance with the Declaration rests with each POA Member. The Board shall be responsible for assuring the POA's compliance with the Declaration and Bylaws. The Board shall enforce the requirements of the Declaration through

disciplinary proceedings against the appropriate Member as described below, and also, if deemed necessary by the Board, through legal action for injunctive relief, monetary damages, or both.

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 either the Board or an adjudicatory panel appointed by the Board and consisting of POA Members not serving as POA officers or Directors to determine if any lot or parcel Owner should be fined or if planned community privileges or services should be suspended pursuant to the powers granted to the association by

G.S.§47F-3-102(11) and (12). If the Board fails to appoint an adjudicatory panel to hear such matters, hearings under this section shall be held before the Board. The lot or parcel 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 dollars (\$100.00) may be imposed for the violation and without further hearing for each day, beginning the sixth day after the decision, for which the violation remains unabated. Wrongful cutting of trees shall result in a fine of one hundred dollars (\$100.00) per tree wrongfully cut, together with restitution for costs of re-planting. Such fines shall be assessments secured by lien rights pursuant to 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 as authorized by G.S.§47F-3-107.1.

Section 3. Guidelines for Fines. The Board will be fair, reasonable and consistent in enforcement of the Declaration and Bylaws, taking into account the situation, how it affects the Mountain in general and nearby properties in particular, the consequences should the offense become one of a more generalized nature, how other similar violations have been handled since this disciplinary policy was adopted, any history of previous violations of the same or a similar nature by the respondent Member, and the degree to which the Member has attempted to mitigate the situation. If the Member should repeat the same or similar violation in the future, the Board may also choose to pursue the matter through appropriate legal action. The Board does not act as the arbiter of any private disputes among Members. The Board will refer all violations that constitute criminal offenses to the appropriate law enforcement department.

ARTICLE X: AMENDMENTS

The Members may adopt new Bylaws or amend or rescind these Bylaws by the lesser of either:

- (a) a simple majority of the votes entitled to be cast on the amendment; or
- (b) a two-thirds (2/3rds) affirmative vote of the Members present in person or by proxy at any meeting of the Members with a duly constituted quorum; at a meeting for which the notice of meeting both stated that the purpose, or one of the purposes, of the meeting is to consider the proposed amendment(s) and also contained a copy or summary of the amendment(s).

The Board, by simple majority vote at any Board meeting with a duly constituted quorum, may amend the Bylaws for the sole purpose of rendering them compliant with applicable law, including, but not limited to, the retroactively-applicable provisions of the North Carolina Planned Community Act (Chapter 47F of the North Carolina General Statutes) and the North Carolina Nonprofit Corporation Act (Chapter 55A of the North Carolina General Statutes).

As elected Secretary of Powder Horn Mountain Property Owners' Association, Inc. (the "POA"), I do hereby certify the foregoing document to be a true and accurate copy of the AMENDED AND RESTATED BYLAWS of the POWDER HORN MOUNTAIN PROPERTY OWNER'S ASSOCIATION, INC. as last amended by the affirmative vote of more than two-thirds (2/3) of the POA's members casting votes at the annual POA membership meeting held on June 14, 2014, for which meeting a duly-constituted quorum was confirmed present and written notice of meeting was timely provided to the members that both stated that the purpose, or one of the purposes, of the meeting was to consider the proposed amendment(s) and also contained a copy or summary of the amendment(s).

_____ (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 s/he is SECRETARY of POWDER HORN MOUNTAIN PROPERTY OWNERS' ASSOCIATION, INC. (the "POA") and, being duly authorized, acknowledged, on behalf of the POA, the due execution of the foregoing instrument.

Witness my hand and official seal, this the _____ day of _____, 2014.

(Official Seal)

Notary Public

My commission expires: _____, 20____.