

**BY-LAWS**  
**OF**  
**POWDER MOUNTAIN WEST LAND OWNERS ASSOCIATION**

**ARTICLE I**

**NAME AND LOCATION**

The name of the corporation is POWDER MOUNTAIN WEST LAND OWNERS ASSOCIATION, hereinafter referred to as the "Association." The principal office of the Association shall be located in Ogden, Utah, but meetings of members and trustees may be held at such places within the State of Utah as may be designated by the Board of Trustees.

**ARTICLE II**

**DEFINITIONS**

**Section 1.** "Association" means POWDER MOUNTAIN WEST LAND OWNERS ASSOCIATION, its successors and assigns.

**Section 2.** "Common Areas and Facilities" means all real property owned and set aside for the common use and enjoyment of the lot Owners.

**Section 3.** "Declarant" means POWDER MOUNTAIN, INC., or POWDER MOUNTAIN WATER AND SEWER IMPROVEMENT DISTRICT, as the case may be, and their successors and assigns.

**Section 4.** "Declaration" means the Agreement and Protective Covenants of Powder Mountain West recorded as Entry No. 780715, in Book 1308, Page 854 (Phase 1); Agreement and Protective Covenants, Powder Mountain West, Phase 2, recorded as Entry No. 1257699 in Book 1689 Page 918; Restrictive Covenants and Landowners Agreements recorded as Entry No. 1345681 in Book 1757 Page 539 (Phase 3); Restrictive Covenants and Landowners Agreements recorded as Entry No. 1358725 in Book 1767 Page 2765 (Phase 4), and a Land Owners

Agreement, the form of which is recorded as Entry No. 1257619 in Book 1689, Page 926, applicable to the properties and recorded in the Office of the Weber County Recorder, State of Utah.

**Section 5.** "Lot" means any lot as shown on the subdivision plat maps filed with the Weber County Recorder with respect to the Project.

**Section 6.** "Member" means each of those persons entitled to membership in the Association as provided in the Declarations.

**Section 7.** "Owner" means the record Owner, whether one or more persons or entities, of the fee simple title to any lot which is a part of the Project, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

**Section 8.** "Project" means the Powder Mountain West Subdivision subdivided lots and improvements on that certain real property described in the Declarations recorded in the Office of the Weber County Recorder.

**Section 9.** All other references used, but not otherwise defined herein, shall have the meanings defined in the Declarations.

### ARTICLE III

#### MEETINGS OF THE MEMBERS OF THE ASSOCIATION

**Section 1. Annual Meetings:** An annual meeting of lot Owners shall be held at a time and location set by the Board of Trustees to be convened annually each year as may be designated by written notice of the Board of Trustees, or its designate, delivered to the Owners not less than ten (10) days prior to the date fixed for said meeting. At the annual meeting, elections shall be held to elect members of the Board of Trustees, financial reports shall be given and such other business shall be conducted as may be properly presented.

**Section 2. Special Meeting of the Lot Owners:** Special meetings of the lot Owners may be called at any time by written notice signed by a majority of the Board of Trustees, or by the

Owners having fifteen percent (15%) of the total votes, delivered not less than fifteen (15) days prior to the date fixed for said meeting. Such meeting shall be held at a date, time and location set by in the notice, and the notice thereof shall state the matters to be considered.

**Section 3. Quorum:** A quorum for the transaction of business at an Owner's meeting shall consist of fifteen percent (15%) of all the undivided ownership interests in the lots, common areas and facilities of the Project present for the meeting in person or represented by proxy. If a quorum is not present at an Owner's meeting, whether regular or special, the meeting may be adjourned and rescheduled for a time no earlier than two (2) days, and no later than thirty (30) days, after the time set for the original meeting. No notice of such rescheduled meeting shall be required. A quorum for the transaction of business at the rescheduled meeting shall be 15% of all the undivided ownership interests in the lots, common areas and facilities in the Project present for the meeting in person or represented by proxy. Every act or decision authorized by a majority of the lot Owners present for the meeting in person or represented by proxy at a duly called and constituted meeting shall constitute the action of and be binding upon all of the lot Owners.

**Section 4. Voting at Meeting of Lot Owners:** At any meeting of Owners, each Owner or Owners of a lot shall be entitled to one vote per lot. Any Owner or Owners may attend and vote at such meeting in person or by agent duly appointed in writing signed by the Owner or Owners and filed with the Board of Trustees. Where there is more than one record Owner for any lot, any or all such Owners may attend any meeting of the Owners, but they must act unanimously in order to cast the vote to which they are entitled. The Board of Trustees may accept the vote cast by any one of the record Owners of a lot, unless such vote is objected to by any of the other record Owners of such lot, and any disagreement between such record Owners shall be resolved among themselves; provided, however, that if the record Owners are unable to resolve the disagreements among themselves and act unanimously, the Board of Trustees shall not accept the votes of such Owners.

**Section 5. Notices:** Any notice permitted or required to be delivered as provided herein may be delivered either hand delivered, mailed, e-mailed or faxed. If delivery is made by mail, it shall be deemed to have been delivered 24 hours after a copy of the same has been deposited in the United States mail, postage pre-paid, addressed (1) to each such person at the address given by such person to the Board of Trustees or Manager for the purpose of service of such notice, or (2) to the address of the lot Owner by such person, if no address has been given to the Board of Trustees or the Manager. Such address may be changed, from time to time, by notice in writing to the Board of Trustees or Manager.

**Section 6. Proxies:** At all meetings of members, each member may vote either in person or by proxy. All proxies shall be in writing duly signed and dated by the voting member and filed with the Secretary of the Association in a form acceptable to the Board of Trustees. Every proxy shall be revocable either in writing or personal appearance and shall be automatically void upon conveyance by the member of that member's lot.

**Section 7. Action Taken Without a Meeting.** Any action which is permitted to be taken at an annual or special meeting of members may be taken in lieu of such a meeting by obtaining the written waiver and approval of a majority of the members after advising all of the members of such action. Any action so approved shall have the same force and effect as though taken at a meeting of the members

**Section 8. Action Taken By Written Ballot.** Any action which is permitted to be taken at an annual or special meeting of members may be taken without a meeting if a written ballot is delivered to every member entitled to vote on the matter. The ballot must set forth each proposed action; provide for a vote for or against each proposed action; disclose the number of responses needed to meet the quorum requirements; state the percentage of votes needed to approve the proposed action; specify the time by which the ballot must be returned; and be accompanied by a written explanation of the action being proposed so that the member casting the ballot can reach an

informed decision on the proposal.

**Section 9. Telecommunications.** Any action that is permitted to be taken at an annual or special meeting of members may be conducted through use of any means of communication by which all persons participating in the meeting may hear each other during the meeting.

#### ARTICLE IV

##### **SELECTION AND TERM OF THE BOARD OF TRUSTEES**

**Section 1. Number:** The affairs of this Association shall be managed by a Board of five (5) Trustees who must be members of the Association.

**Section 2. Term of Office:** At an annual meeting, the members shall elect two (2) Trustees to serve for a term of one (1) year; three (3) Trustees to serve for a term of two (2) years; and at each annual meeting thereafter the members shall elect two (2) Trustees or three (3) Trustees, as the case may be, for a term of two years. A Trustee's term shall extend beyond such period until such time as the Trustee's successor shall have been elected and shall have qualified.

**Section 3. Removal:** Any trustee may be removed from the Board, with or without cause, by a majority vote of the voting members of the Association. Upon the death, resignation or removal of a Trustee, a successor Trustee shall be selected by the remaining members of the Board and shall serve for the unexpired term of the predecessor.

**Section 4. Compensation:** No Trustee shall receive compensation for any service the Trustee may render to the Association. However, any Trustee may be reimbursed for actual expenses incurred in the performance of the Trustee's duties.

#### ARTICLE V

##### **NOMINATION AND ELECTION OF TRUSTEES**

**Section 1. Nomination:** Nomination for election to the Board of Trustees shall be made either (a) by a Nominating Committee, or (b) from the floor at the annual meeting. The Nominating Committee shall consist of a Chairman, who shall be a member of the Board of

Trustees, and one (1) or more voting members of the Association. The Nominating Committee shall be specified and appointed by the Board of Trustees prior to each annual meeting of the members, to serve from the close of such annual meeting until the close of the next annual meeting and such appointment shall be announced to the members. The Nominating Committee shall make as many nominations for elections to the Board of Trustee as it shall, in its discretion, deem proper. Nominations must be made from among members.

**Section 2. Election.** Elections to the Board of Trustees shall be by secret written ballot, unless all of the members present elect otherwise. At such elections the voting members or proper proxies, may cast, in respect to each vacancy, as many votes as they are entitled to exercise under the provisions of these By-laws. The persons receiving the largest number of votes shall be elected.

## ARTICLE VI

### MEETINGS OF BOARD OF TRUSTEES

**Section 1. Regular Meetings:** A regular meeting of the Board of Trustees shall be held annually, and as otherwise needed, without notice, at such place and hour as may be fixed, from time to time, by resolution of the Board.

**Section 2. Special Meetings:** Special meetings of the Board of Trustees shall be held when called by (a) the Chairman of the Association, or (b) by any two (2) Trustees, after not less than three (3) days written notice mailed, e-mailed, faxed, or hand delivered to each Trustee.

**Section 3. Quorum:** A majority of the Trustees shall constitute a quorum for the transaction of business. Every act or decision authorized by a majority of the Trustees present at a duly called and constituted meeting shall represent the action of the entire Board of Trustees.

**Section 4. Action Taken Without a Meeting:** The Board of Trustees shall have the authority to take any action in the absence of a meeting which the Trustees could take at a meeting by obtaining the written waiver and approval of the same number of Trustees needed to approve

the action when all Trustees were present and voted. Any action so approved shall have the same force and effect as though taken at a meeting of the Trustees.

**Section 5. Telecommunications.** Any action that is permitted to be taken at a regular or special meeting of the Board of Trustees may be conducted through use of any means of communication by which all persons participating in the meeting may hear each other during the meeting.

**Section 6. Proxies.** A Trustee who is unable to attend a meeting of the Board of Trustees may give his written proxy to another Trustee who is present at the meeting authorizing the other Trustee to cast the vote that is directed to be cast as set forth in the written proxy with respect to the particular proposal that is described with reasonable specificity in the proxy. All proxies shall be in writing duly signed and dated by the voting member and filed with the Secretary of the Association in a form acceptable to the Board of Trustees.

## **ARTICLE VII**

### **POWERS AND DUTIES OF THE BOARD OF TRUSTEES**

**Section 1. Powers:** The Board of Trustees shall have the power to:

- a. adopt and publish rules and regulations governing the use of the common areas and facilities by the members and their guests, and to establish penalties for any infraction thereof; and
- b. to suspend the voting rights and right to use of the common areas and facilities of a member during any period in which such members shall be in default in the payment of any assessment levied by the Association. Such rights may also be suspended after notice and hearing, for a period not to exceed sixty (60) days from infraction of published rules and regulations; and
- c. to exercise on behalf of the Association all powers, duties and authority vested in or delegated to the Association and not reserved to the membership by other

provisions of these By-Laws, the Articles of Incorporation, or the Declarations; and

d. to declare the office of a member of the Board of Trustees to be vacant in the event such member shall be absent from three (3) consecutive regular meetings of the Board of Trustees; and

e. to employ and arrange for compensation of a manager, an independent contractor, and employees as it deems necessary, and to prescribe their duties.

**Section 2. Duties:** It shall be the duty of the Board of Trustees:

a. to cause to be kept a complete record of all its acts and the affairs of the Association and to present a statement thereof to the members at the annual meeting of the Association; and to present such statement at any special meeting upon written request given at least ten (10) days prior to such meeting by one-fourth (1/4) of the members entitled to vote; and

b. to supervise all officers, managers, agents and employees of the Association, and to assure that their duties are properly performed; and

c. as more fully provided in the Declarations, to:

(i) fix the amount of the annual assessment against each lot at least thirty (30) days in advance of each annual assessment period; and

(ii) to send written notice of any assessment to every Owner subject thereto at least thirty (30) days in advance of the annual assessment; and

(iii) to foreclose any lien against any property for which assessments are not paid or bring an action at law against the Owner personally, as authorized by the Declarations; and

d. to issue, or to cause to be issued, upon demand by any lot Owner, a written statement setting forth whether or not any assessment has been paid. A reasonable charge may be made by the Board for the issuance of any statement. If a signed statement verifies

that an assessment has been paid, such statement shall be conclusive evidence of payment;  
and

e. to acquire and maintain adequate liability and hazard insurance on the common areas and facilities owned by the Association; and

f. to require all officers, managers and employees having fiscal responsibilities to be bonded as the Board may deem appropriate; and

g. to cause the common areas and facilities to be maintained; and

h. to take all other actions directed or permitted in the Declarations.

## ARTICLE VIII

### OFFICERS AND THEIR DUTIES

**Section 1. Enumeration of Offices:** The officers of the Association shall be a Chairman, Vice-Chairman, Secretary, and a Treasurer, and such other officers as the Board of Trustees may, from time to time, create by resolution.

**Section 2. Election of Officers.** The election of the officers shall take place at the first meeting of the Board of Trustees following each annual meeting of the members.

**Section 3. Term:** The officers of the Association shall be elected annually by the Board and each shall hold office of one (1) year unless the officer shall sooner resign, or shall be removed, or otherwise disqualified to serve.

**Section 4. Special Appointments:** The Board may elect such other officers as the affairs of the Association may require, each of whom shall hold office for such period, have such authority, and perform such duties as the Board may, from time to time, determine necessary.

**Section 5. Resignation and Removal:** The Board may remove any officer from office, with or without cause. Any officer may resign at any time upon giving written notice to the Board, the Chairman or the Secretary. Such resignation shall take effect on the date of receipt of such notice or at any later time specified herein, and unless otherwise specified to make it

effective.

**Section 6. Vacancies:** A vacancy in any office may be filled by appointment from the Board of Trustees. The officer appointed to such vacancy shall have all of the powers of the appointed office and shall serve for the remainder of the term of the officer replaced.

**Section 7. Multiple Offices:** The offices of secretary and treasurer may be held by the same person. No person shall simultaneously hold more than one of any of the other offices except in the case of special offices created pursuant to Section 4 of this article.

**Section 8. Duties:** The duties of the officers are as follows:

**Chairman**

a. The Chairman shall preside at all meetings of the Board of Trustees and members and shall assure that orders and resolutions of the Board are carried out; shall sign all leases, mortgages, deeds and other written instruments and may co-sign all checks and promissory notes.

b. The Chairman shall appoint, remove and fix the compensation of all managers, agents and employees of the Association subject to approval by the Board of Trustees.

c. The Chairman shall enforce these By-Laws and perform all of the duties and obligations required or established by law as incident to the office of Chairman.

**Vice-Chairman**

d. The Vice-Chairman shall act in the absence or inability of the Chairman, rendering and performing all duties of the Chairman with full authority, and shall exercise and discharge such other duties as may be required of him by the Chairman.

**Vice-Chairman, Operations**

e. The Vice-Chairman, Operations shall act in the capacity of liaison officer between the Association and Powder Mountain Resort Management on matters of mutual concern. Other duties will include the day to day review of construction activities with the sub-division.

**Secretary**

f. The Secretary shall record the votes and keep the Minutes of all meetings and proceedings of the Board of Trustees and of the members; keep the seal of the Association and affix it on all papers requiring said seal; serve notice of meetings of the Board and of the members; keep appropriate current records showing the members of the Association together with their addresses; and shall perform such other duties as required by the Chairman. The Secretary shall receive and attend to all correspondence and perform all of the duties and obligations incident to the office of Secretary.

**Treasurer**

g. The Treasurer shall receive and deposit in appropriate bank or other financial institution accounts the money of the Association and such funds as directed by the Chairman or by resolution of the Board; shall sign all checks and promissory notes of the Association; keep proper books of account; cause an annual examination of the Association books to be made at the completion of each fiscal year; and shall prepare an annual budget and a statement of income and expenditures to be presented to the membership at its regular annual meeting.

**ARTICLE IX**

**COMMITTEES**

The Association may appoint a Management Committee and an Architectural Control Committee as provided in these By-Laws. In addition, the Board of Trustees shall appoint other committees as deemed appropriate in carrying out the requirements and purposes of the Association.

**ARTICLE X**

**BOOKS AND RECORDS**

The books, records and papers of the Association shall, during reasonable business hours, be subject to inspection by voting members. The Declarations, Articles of Incorporation, and these By-Laws shall be available for inspection by any member at the principal office of the Association, where copies may be purchased at reasonable cost.

**ARTICLE XI**

**SEAL OF THE ASSOCIATION**

The seal of the Association shall be in such form as selected by the Board of Trustees.

**ARTICLE XII**

**AMENDMENTS**

**Section 1.** These By-Laws may be amended at a regular or special meeting of the Board of Trustees upon the vote of a majority of a quorum of Trustees present in person or by proxy.

**Section 2.** In the case of any conflict between the Articles of Incorporation and these By-Laws, the Articles of Incorporation shall control; and in the case of any conflict between the Declaration and these By-Laws, the Declarations shall control.

**ARTICLE XIII**

**MISCELLANEOUS**

These By-Laws shall be interpreted according to the laws of the State of Utah.

The fiscal year of the Association shall begin on the first day of July and end on the 30th day of June every year, except that the first fiscal year shall begin on the date of incorporation.

IN WITNESS WHEREOF, we, being all of the Trustees of POWDER MOUNTAIN WEST LAND OWNERS ASSOCIATION, have hereunto set our hands this 5<sup>th</sup> day of April, 2010.

Beth A Partleton  
Chairman

Steven M. Gaudin  
Vice Chairman

Craig Colgate III  
Vice Chairman Operations

Heather L. Jaworski  
Treasurer

James Hoffman  
Secretary

