

## By-Laws

MT. POCAHONTAS PROPERTY OWNERS' ASSOC., INC.  
386 OLD STAGE ROAD  
ALBRIGHTSVILLE, PA. 18210  
REVISED JULY 10, 2010



### ARTICLE 1 – NAME, ADDRESS, AND PRINCIPAL OFFICE

#### Par. 1 – Name.

The name of the Association is Mount Pocahontas Property Owners' Association, Inc. herein referred to as "Association". A non –profit corporation, organized and existing under the laws of the Commonwealth of Pennsylvania. Incorporation date - March 1, 1977, Registration number – 640050.

#### Par. 2 – Principal Office.

The principal office of the Association shall be in the Association clubhouse which is located at the intersection of Old Stage Road (Route 473) and Meckesville Road (Route 518) in Penn Forest Township, Carbon County, Pa.

#### Par. 3 – Address

The official address of the Association shall be 386 Old Stage Road, Albrightsville, Pa. 18210.

### ARTICLE II – MEMBERSHIP

#### Par. 1 – Limit of Membership.

The membership of the Association shall be limited to those persons or entities who have the following ownership interest in lots located in the development known as Mt. Pocahontas which is located in Penn Forest Township, Carbon County, Pa., being a subdivision known as Mt. Pocahontas and which is particularly described in the land records of Carbon County, in map book Volume 1, pages 117, 152, 154 and 163.

- a. Ownership of a lot in fee simple.
- b. Ownership of an undivided fee interest in a lot.
- c. No individual shall be denied membership on the basis of race, creed, religion, color or national origin.

Par. 2 - A member shall not resign or transfer their membership so long as a person or entity continues to own the full or undivided interest of a lot. Such a person or entity continues to be a member.

#### Par. 3 – Tenant Privileges.

A tenant may be granted limited privileges as given by the owner of the property in reference to the facilities of the Association. THIS SHALL NOT INCLUDE THE RIGHT TO ATTEND, SPEAK AND VOTE AT BOARD MEETINGS OR YEARLY GENERAL MEETINGS.

Par. 4 – Privileges of Membership.

- a. The right of access, to the lot(s) owned or being purchased by the respective members, over the roads owned and maintained by the Association.
- b. The use of such facilities as the Association may establish for the health, safety, recreation and convenience of its members.
- c. The right to petition with respect to all matters that may be referred to a vote of the members of law under the Articles of Incorporation or by these By-Laws.
- d. The right to attend all Board and annual meetings of the Association except those meetings which are referred to as working or executive sessions, which shall be deemed closed meetings of the Board.
- e. Shall have the right, as a member in good standing, to be a candidate for Director, Officer and/or committee member of the Association.
- f. Shall have the right to make, amend and repeal the By-Laws of the Association, by submitting, in writing, proposed changes. Changes shall take place at the annual meeting. The members shall be notified at least 30 days prior to the voting on said changes. The voting shall be by 2/3 majority of members in attendance. Members wishing to submit changes shall do so through Board members. Proposed changes shall be in writing.

Par. 5 – Discipline.

- a. Members shall at all times comply with the rules, regulations and By-Laws of the Association, and shall be responsible for like compliance by family members, guests, tenants and invitees.
- b. Members shall pay all assessments, dues, fines, penalties and user fees levied pursuant to the authority created by these By-Laws and deed restrictions created when the Association was formed.
- c. Members shall be responsible for all damages attributed to the member, family, tenant, guest and invitees.
- d. Discipline shall be imposed if a member, family member, guest, tenants and/or invitees are guilty of:
  - (1) Creating a nuisance upon any of the Association's property.
  - (2) Any intentional omission giving rise to damage or expense to the Association.
  - (3) A violation of the rules or regulations provided for in the administrative code.
  - (4) Failure to clear property of debris caused by fire or other means within a three month period, and upon due notice by the Board.
- e. A Member in Good Standing shall be a member who has paid all MPPOA charges in full, such charges shall include, but not be limited to, assessments, special assessments, penalties, fines, interest, etc. In addition, a member in good standing must not be in violation of the provisions of any Covenant, By-laws or Rule.

Par. 6 – Suggestions

Every member in good standing shall have the right to make suggestions to the Board of Directors for the betterment of the Association. SUCH SUGGESTIONS SHALL BE IN WRITING AND ADDRESSED TO THE BOARD.

Par. 7 – Voting Rights

Voting rights of all members, in good standing, at the annual meeting shall be one vote allotted to each lot regardless of the number of owners of any such lot. During the exercise of such voting rights, the vote from any group of lots may not be split by the owners.

Par. 8 – Proxy.

Any member, in good standing, may authorize another member to act for him/her by proxy, in all matters in which a member may participate including waving of notice of meetings, voting, participating at a meeting, expressing consent or dissent to corporate action, either verbally or in writing, with or without a meeting. Any such proxy shall be signed by the member or their attorney in fact, and must be filed in the office of the Association prior to the day of the meeting for which it is to be used. A PROXY MAY BE USED FOR ALL PURPOSES EXCEPT FOR THE ELECTION OF MEMBERS TO THE BOARD OF DIRECTORS.

ARTICLE III – BOARD OF DIRECTORS

Par. 1 – The Board of Directors shall:

- a. Manage the affairs and business of the Association in trust for the membership.
- b. Adopt and publish rules and regulations governing the use of common property(s) and facilities, and the personal conduct of the members, their family, guests, tenants and invitees.
- c. Establish, levy, assess, and collect dues, assessments, fees, charges, fines and penalties.
- d. Adopt an administrative code establishing appropriate procedures for the carrying out of the provisions of these By-Laws.
- e. Have the power to inquire, investigate and evaluate all matters pertaining to the affairs of the Association.
- f. Exercise the specific powers conferred by the Articles of Incorporation and those general powers prescribed in Title 15, Section 7502 of the Pennsylvania Consolidated Statutes.
- g. Have the power to appoint, remove any and all agents, officers and employees of the Association according to contractual agreements, *Sturgis Rules*, and the Employee Handbook, respectively. To prescribe employee duties and fix their compensation.
- h. Have the power, after proper notification to the lot owners, to have the property cleared of debris caused by fire or other actions, and charging

the cost of said cleanup to the owner after proper notification to the owner – three (3) months.

- i. Make an operating budget and a capital budget for each fiscal year. The budget shall fix the amount of the assessment to be levied for the fiscal year. The Board shall anticipate income and expenses from all sources. The fiscal year shall run from January 1 to December 31.

Par. 2 – Quorum

A quorum of the Board of Directors shall be at least five (5) Directors.

Par. 3 – Number and Term of Directors.

The Board of Directors shall consist of nine (9) individuals. Each Director shall be at least eighteen (18) years of age, and a member in good standing. If a Director becomes a member not in good standing for any reason, said Director shall have his or her voting privileges suspended until they become a member in good standing.

The Board of Directors shall be elected at the annual meeting of the Association and shall serve for three (3) years or until their replacements have been elected.

No two members of the same family, brother, sister, son, daughter or spouse shall serve at the same time.

Par. 4 – Absence and Vacancies.

- a. Any Director who is absent for three (3) consecutive regular meetings of the Board, or a total of four (4) regular meetings in the course of a twelve (12) month period, regardless of cause, shall be deemed to have resigned from the Board and the Board shall fill the unexpired term in accordance with these By-Laws.
- b. If a vacancy on the Board of Directors occurs at any time, the remaining members of the Board shall elect a Director to serve for the unexpired term. The Board must then advertise applications to fill the vacancy for a thirty (30) day period and the Board, in its discretion, shall select a candidate(s) to fill the vacancy(ies).
- c. Upon receipt of a court certification that a Director has been convicted or pleaded guilty to an offense involving dishonesty or moral turpitude, his/her office shall be deemed vacant by the Board.
- d. Notwithstanding subparagraph a, above, the Board of Directors, for good cause shown, which is defined under *Sturgis Rules* as:
  - a. Continued, gross or willful neglect of the duties of the office.
  - b. Failure or refusal to disclose necessary information on matters of organization business.
  - c. Unauthorized expenditures, signing of checks, or misuse of organization funds.
  - d. Unwarranted attacks on the president or refusal to cooperate with the president.
  - e. Misrepresentation of the organization and its officers to outside persons.

f. Conviction of a felony.  
may unilaterally remove a Director after complying with the following procedure:

1. A majority of the Board must vote to issue a notice of proposed removal to the affected Director. Said vote must occur at a special meeting of the Board of Directors called for said purpose.
2. The notice shall be sent to the affected Director fifteen (15) days prior to the next special Board meeting. The notice letter must contain a specific explanation of the reason and basis for removal.
3. At the second special Board meeting, the Board should permit the affected Director to respond to the claims raised in the notice letter. The Board and affected Director reserve the right to have counsel present.
4. At the next open board meeting, the Board shall then vote to remove the Director.
5. Two thirds of the Board should be required to remove the Director.

Par. 5 – Term and Condition of Term.

Directors shall be limited to two (2) consecutive three-year terms. They cannot run for re-election until one full year passes since the end of their present term, unless those persons in office shall continue in office until their successors may be duly elected. They shall retain the full powers of their position until the aforesaid time. No director shall serve more than seven (7) consecutive years.

Par. 6 – Meetings of the Board.

The Board of Directors shall meet according to a schedule of regular meetings adopted each year at the Re-organization meeting. The Re-organization meeting shall take place after the annual meeting of the membership. This schedule will be published to the membership and posted on the bulletin board in the clubhouse. The Board of Directors shall meet at least once, during each calendar quarter.

Par. 7 – Special Meetings of the Board.

- a. A special meeting of the Board may be called by the President of the Board with five (5) days of written notice to all board members. Any ten (10%) percent of members in good standing may request in writing the President to call a special meeting. A general proxy is not permitted, but a Director, unable to attend a special meeting may send or give a specific proxy to the Secretary of the Board prior to the special meeting for a specific item on the agenda.
- b. The first meeting of the Board following the annual meeting shall be termed the Re-organizational meeting of the Board of Directors. This meeting is termed a “working” session and is a closed meeting. At this meeting of the Board the only business shall be:
  1. Election of Officers of the Board.
  2. Appointment of committee chairpersons.

3. Set the calendar for the regular meetings of the Board of Directors for the coming year, which shall run from the annual meeting until the next annual meeting.

#### ARTICLE IV – OFFICERS AND DUTIES OF OFFICERS

##### Par 1. – Election

The Board of Directors shall elect a President, Executive Vice-President, one or more Vice-presidents as needed, Treasurer, Secretary and such other officers as Directors may, from time to time, create by resolution prescribing the duties and the powers of the officers thereof. All members of the Board who handle monies of the Association shall be bonded at the expense of the Association. The President, Treasurer and Maintenance Chairperson must have their primary residence in Mt. Pocahontas.

##### Par. 2 – Duties of the President

The President shall be the chief executive officer of the Association, shall have the powers and responsibility for the general management of the affairs of the Association and shall carry out the resolutions of the Board of Directors, and shall be ex-officio member of all standing committees.

##### Par. 3 – Duties of the Executive Vice-President

The Executive Vice-President shall assume the duties of the President in the absence of the President.

##### Par. 4 – Duties of the Treasurer

- a. The Treasurer shall have the custody of all funds and securities of the Association.
- b. Shall have the responsibility to see that full accurate accounts are kept of all monies received and paid out by the Association.
- c. Shall at each regular meeting of the Board, or whenever directed by the Board of Directors, report on the financial condition of the Association.
- d. Shall have the power to invest corporate funds when instructed to do so by the Board of Directors.

##### Par. 5 – Duties of the Secretary

- a. Shall keep an accurate record of all meetings of the Board of Directors and the annual meetings.
- b. Shall be custodian of the corporate seal and all legal papers and records of the Association. The seal, papers and records shall be maintained in the office of the Association.
- c. Shall report at all Board meetings all correspondence to and from the Board.
- d. Shall maintain, in the office of the Association, a permanent file of all minutes of the Board and annual meetings.
- e. Shall furnish copies of the minutes to all Board members following each meeting.

- f. Shall furnish, upon request, copies of the minutes to members. A charge per copy and postage will be made.
- g. Shall post in the clubhouse a copy of all minutes.

#### ARTICLE V – NOMINATIONS AND ELECTIONS

Par. 1 – The election of officers to the Board of Directors shall be by secret written ballot, received on or at the annual meeting. The ballot may be mailed or handed in at the opening of the annual meeting. The candidates elected shall assume office at the close of the annual meeting.

Par. 2 -Those members who attend the annual meeting in person may go to the office and request a ballot. The right to vote shall be checked by the office personnel. The individual requesting a ballot shall not be given a ballot if they have voted by mail or they are not in good standing as a member.

Par. 3 –A Nomination and Election Committee, consisting of no less than three (3) members in good standing shall be appointed by the President, with Board approval, at least sixty (60) days prior to the annual meeting. No member of the Board running for re-election shall serve on this committee nor any member of his/her family. At the annual meeting this committee shall be augmented by three (3) additional members from the floor. This joint committee shall be responsible for the accurate counting of the ballots.

Par. 4 – Nomination & Election Committee

The Nomination and Election Committee shall meet in time to publish the names and resumes of all members recommended and approved by the committee to run for position on the Mount Pocahontas Property Owners’ Association Board of Directors.

Par. 5 – Qualifications of a Board Member

- a. A member wishing to be considered for office must be in good standing.
- b. All nominees must be bondable.

Par. 6 – Any person wishing to make a nomination may do so by sending the name, with the resume and signature of the person indicating their willingness to serve, to the Chairperson of the Nomination and Election Committee. Said resume shall be submitted no later than April 30<sup>th</sup>.

Par. 7 – The Nomination and Election Committee, or those so delegated, shall mail the ballots, names and resumes of those recommended the rules for conducting business and the rules of election.

Par. 8 – Procedure for mailing the ballots.

Members unable to attend the annual meeting to vote in person shall complete the ballot and insert it in the SMALL envelope and seal it. On the back of the small envelope simply mark it “BALLOT YEAR\_\_\_\_\_”. Place the

small envelope in the large envelope and seal it. On the back of the LARGE envelope place your name as the voter and the number of lots you own plus their numbers. If this procedure is not followed your vote shall be deemed invalid and will not be counted. One vote is allowed for each lot owned.

Par. 9 – Office procedure for handling ballots.

The back of the large envelope shall be checked by the office personnel, and if the member is in good standing the large envelope shall be opened and the SMALL envelope shall be marked as to the number of lots owned. No lot numbers shall be placed on the small envelope, which shall be then placed in a box for opening by the Nomination and Election Committee during the annual meeting.

If the person who signed the back of the LARGE envelope is NOT eligible to vote, the large envelope shall remain unopened and be held for the Nomination and Election Committee Chairperson. These ballots shall not be counted as legal votes.

Par. 10 – After the opening of the annual meeting, the Chairperson shall direct members who have not turned in their ballots to do so immediately. There shall be no nominations from the floor. Additional counters will be selected from the floor by the meeting Chairperson.

The Nomination and Election Committee members along with the three (3) counters from the floor shall proceed to a separate area to begin tabulation.

Par. 11 – If the total number of nominees is exactly the same as the number of Directors to be elected, the Chairperson shall instruct the Nomination and Election Committee to open only as many ballots as necessary to obtain one vote for each candidate. The Chairperson of the annual meeting shall declare the Directors elected – naming them, to take office at the close of the annual meeting.

Par. 12 –The Chairperson of the Nomination and Election Committee shall turn over all ballots to the Secretary who shall hold them for a period of one year.

#### ARTICLE VI – ASSESSMENTS AND THE COLLECTION OF SAME.

Par. 1 – All assessments shall be due and payable between January 1<sup>st</sup> and March 31<sup>st</sup> of each year.

Par. 2 – Any assessment, citation, dues and fines not paid by March 31<sup>st</sup> of each year shall be subjected to a penalty of ten (10%) percent of the amounts owed.

Par. 3 –If delinquent accounts are placed for collection or for court action, the owners shall be responsible for legal, collection and court costs which shall be in addition to the amounts owed the Association.

Par. 4 –In accordance with the original deeded restrictions and covenants running the land, the Board of Directors shall fix the rate of assessments by December 1<sup>st</sup> for

the ensuing year, and shall take actions as may be necessary for the collection of current and delinquent assessments and other fees owed the Association.

ARTICLE VII – PERSONAL LIABILITY OF THE DIRECTORS.

Par. 1 – Personal liability of the Directors shall be pursuant to the Pennsylvania C.S.A. Judiciary and Judicial procedure, Section 836A.

Par. 2 – General Rule – Whenever the By-Laws of a corporation, by a vote of the shareholders or members, so provide a Director of a business corporation, or of a non-profit corporation shall not be personally liable for monetary damages as such for any action taken, or any failure to take action unless:

- a) The Director has failed or breached to perform the duties of his or her office under section 8363 which relates to standards of care and justifiable reliance.
- b) The breach or failure to perform constitutes self-dealing, willful misconduct, or recklessness.

Exception – Provisions of this section shall not apply to:

1. The responsibility or liability of a Director pursuant to any criminal statute.
2. The liability of a Director for the payment of taxes pursuant to local, state, or federal taxes – Public Law 11/28/86, #145 & 1.

ARTICLE VIII – ANNUAL MEETING AND QUORUM.

Par. 1 – The annual meeting of the Association shall be held on the second Saturday of July. Starting time shall be at 12:15 P.M. at the clubhouse of the Association.

Par. 2 – The quorum for an official annual meeting of the Association shall be a total of 30 eligible votes present in person or by proxy.

Par. 3 - A simple majority of votes cast shall be sufficient to pass any motion on the Floor WITH THE EXCEPTION OF A VOTE TO CHANGE THE BY-LAWS OF THE ASSOCIATION. THIS SHALL REQUIRE A 2/3 MAJORITY VOTE OF ELIGIBLE MEMBERS PRESENT.

ARTICLE IX – RULES OF ORDER.

The annual meeting and the meetings of the Board of Directors shall be conducted in accordance with the latest edition of Sturgis’ “The Standard Code of Parliamentary Procedure” in all points of order not provided in these By-Laws. This in fact that they do not conflict with these By-Laws of the Association.

Previous Revision: July 12, 2008