

## **The Peaks Village Homeowners' Association**

### **BY-LAWS**

#### **Article I**

##### **Name**

The name of the association is The Peaks Village Homeowners' Association (hereinafter from time to time called the "Association").

#### **Article II**

##### **Purposes**

The purpose of this Association is as follows:

To establish an Association of lot owners for the ownership, maintenance and/or control of the common areas, roadways, storm water management structures and easements, if any, for Lots # 66 through 101, inclusive as shown on the following survey plans prepared by Main-Land Development Consultants, Inc.:

- (a) Plan entitled " Third Revised Survey Plan" of The Peaks, Newry, Oxford County, Maine dated October, 2005 and revised September, 2007 recorded as Plan #4186 in the Oxford County Registry of Deeds; and
- (b) Plan entitled " Fourth Revised Survey Plan" of The Peaks, Newry, Oxford County, Maine dated October, 2005 and last revised September, 2007 and recorded as Plan #4187 in the Oxford County Registry of Deeds; and
- (c) Plan entitled " Fourth Revised Survey Plan" of The Peaks, Newry, Oxford County, Maine dated December, 2007 and recorded as Plan #4253 in the Oxford County Registry of Deeds; and
- (d) Plan entitled " Fifth Revised Survey Plan" of The Peaks, Newry, Oxford County, Maine dated December, 2007 and recorded as Plan #4254 in the Oxford County Registry of Deeds;
- (e) Plan entitled " Fifth Revised Survey Plan" of The Peaks, Newry, Oxford County, Maine dated March, 2008 and recorded as Plan #4279 in the Oxford County Registry of Deeds;
- (f) Plan entitled " Sixth Revised Survey Plan" of The Peaks, Newry, Oxford County, Maine dated March, 2008 and recorded as Plan #4280 in the Oxford County Registry of Deeds; and
- (g) Maine Mountain Properties, LLC and each party holding title in the future to any portion of the property on the Plans s " Areas to be Retained by Owner, 16 acres +/- ( the "Reserved Land")  
( collectively the " Property" )



In addition to all the powers, authority and responsibilities granted to or imposed upon this Association, by the laws of the State of Maine, all of which this Association shall have, this Association shall have the following specific powers to the fullest extent permitted by law:

To levy and collect assessments and other charges against members jointly and severally as lot owners so as to maintain (1) the common areas, road and storm water management structures in the Subdivision, as further provided herein, and (ii) the Property; to purchase, sell or otherwise convey, maintain, repair, replace and restore real and personal property, to pledge and mortgage property of the Association; to grant easements for utilities and services; to take title to additional property including property for recreational purposes; to appoint agents; to hire employees and to make contracts; to promulgate rules and regulations for members of the Association; and generally to do any and all lawful acts necessary or convenient for the fulfillment of the foregoing purposes and to exercise all powers and purposes permitted under Title 13-B of the Maine Revised Statutes Annotated, as amended.

This Association is not organized for profit and no property or profit thereof shall inure to the benefit of any person, partnership, or corporation except in furtherance of the nonprofit making purposes of the Association.

### Article III

#### Members

Section 3.1: There shall be three classes of membership as follows:

Class A: Shall be each of those Lot owners as defined in the Restrictive Covenants as Class A voters, each such lot owners shall be entitled to one vote for each of its lot owners in good standing.

Class B: The Class B member shall be the Grantor/ Developer, Maine Mountain Properties, LLC and each party holding title in the future to any portion of the Reserved Land. Maine Mountain Properties, LLC shall be entitled to two (2) votes for each Class A votes until the number of Class A Votes reaches twenty (20). When the number of Class A votes reaches twenty each Class B member(s) shall be entitled to one vote. Class A Members and Class B shall be referred to as "Regular Members".

Class C: The Class C members shall be Chadbourne Tree Farms, LLC, and each party holding title in the future (each a "CTF Lot Owner") to any portion of the CTF Property (as defined in Section 7.8 hereof) whose primary access is via the Fisher Road or the Gene Thurlow Road. Each Class C member(s) shall be entitled to one (1) vote for each lot or parcel of land it owns within the CTF Property with respect to matters relating to the Fisher Road and Gene Thurlow Road, but shall have no right to vote on any other matters.

Section 3.2: Except as otherwise provided, membership shall not be transferable. The membership of owners of each lot or any portion of the Reserved Land shall terminate upon a



sale, transfer or other disposition other than by mortgage, of the ownership interest of such owners in said property, and thereupon the membership of any interest in this Association shall automatically transfer to and be vested in the next owner or owners succeeding to such ownership interest. It shall be the obligation of the new owner(s) to forward to Association a certified copy of the deed into the new owner(s) so as to verify for the Association that the new owner(s) is/are the proper voting party(ies). Said certificate copy can be obtained at the Oxford County Registry of Deeds after the deed has been recorded. The Association may, but shall not be required to, issue certificates or other evidence of membership therein.

Each party owning a portion of the CTF Property shall be automatically deemed to be a Class C member, and shall hold same until his sale, transfer or other disposition other than by mortgage, of his interest in the CTF Property, and thereupon the membership of any interest in this Association shall automatically transfer to and be vested in the owner or owners succeeding to such ownership interest. It shall be the obligation of the new owner(s) to forward to the Association a certified copy of the deed into the new owner(s) so as to verify for the Association that the new owner(s) is/are the proper voting party(ies). Said certificate copies can be obtained at the Oxford County Registry of Deeds after the deed has been recorded. The Association may, but shall not be required to, issue certificates or other evidence of membership therein.

#### Article IV

##### Meeting of Members

Section 4.1: Meetings of the membership shall be held at the Subdivision or at such other place in the State of Maine as may be specified in the Notice of the Meeting.

Section 4.2: The annual meetings of the members shall be held each year on the second Saturday of the Month of November, commencing in the year 2007, and shall be held on that day in each succeeding year. At such meeting there shall be elected a Board of Directors in accordance with provisions of Article V and the annual budget of the Association shall be approved. The members shall also transact such other business as may properly come before them.

Section 4.3: It shall be the duty of the President or in his/her absence or disability, the duty of the Secretary, to call a special meeting of the members as directed by resolution of a majority of the Board of Directors, or upon a petition signed by fifty percent (50%) of the Class A and Class B members of the Association provided that a special meeting may be called upon the petition signed by fifty percent (50%) of all Members (Classes A, B & C) of the Association if the special meeting is to consider matters relating to the Fisher Road and Gene Thurlow Road. The Notice of any special meeting shall state the time, place and purposes thereof. No business shall be transacted at a special meeting except as stated in the said Notice unless with the consent of three-fifths (3/5) of the votes present, either in person or by proxy.



Section 4.4: It shall be the duty of the Secretary, or upon his/her failure or neglect then of any officer or member, to mail by United States Mail, postage prepaid, a notice of each annual or special meeting stating the purpose, the time and place thereof to each designated member of record. With respect to any annual or special meeting such notice shall be so mailed at least seven (7) days but no more than thirty (30) days prior to the date so set for the meeting.

Section 4.5: The presence, either in person or by proxy, of the owners of at least fifty (50%) percent of the Regular Members of the Association shall be requisite for and shall constitute a quorum for the transaction of business at all meetings of members, provided that if the agenda for the meeting includes matters relating to the Fisher Road and/or the Gene Thurlow Road, the presence of owners of at least 50% of all Members (Class A, B & C) shall constitute a quorum.

Section 4.6: If at any meeting of members a quorum shall not be in attendance, a majority of members present may adjourn the meeting to a time not less than forty-eight (48) hours from the time at which the original meeting was called.

Section 4.7: Each member shall be entitled to vote in accordance with Section 3.1. If any member consists of more than one (1) person, the voting rights for such member shall be divided equally among the number of owners and shall be voted accordingly. Unless by express provisions of these By-Laws, a different vote is required, each question presented at a meeting shall be determined by a vote of a majority of lot owners. As used in these By-Laws, the term "majority of membership" shall mean those lot owners having more than fifty (50%) percent of the total authorized votes as determined in accordance with this Section 4.7 of all members present in person or by proxy and entitled to vote at such meeting.

Section 4.8: The vote of any Corporate, partnership or trust member may be cast on its behalf by any officer, partner, trustee, beneficiary of such member and any such member may appoint, in writing, its officer, partner, trustee or beneficiary or any other member as its proxy. Each proxy must be filed with the Secretary prior to the commencement of a meeting, or at any subsequent time that delivery of proxies is required.

Section 4.9: The order of business at all meetings of the members shall be as follows:

- (A) Roll Call;
- (B) Proof of Notice of meeting;
- (C) Reading of minutes of preceding meeting for approval of same;
- (D) Reports of Board of Directors or of officers or of the manager;
- (E) Reports of committees, if any;
- (F) Election of inspectors of election (when so required);
- (G) Election of members of the Board of Directors (when so required);
- (H) Unfinished business
- (I) New business.



Section 4.10: Any action required or permitted to be taken at any meeting of the members may be taken without a meeting if a written consent thereto is signed by all of the membership. The Secretary shall file such written consent with the records of the meeting of the members and such consent shall be treated as a vote of members for all purposes.

## Article V

### Board of Directors

Section 5.1: The affairs of the Association shall be governed by the Board of Directors, which shall consist of at least three (3) persons. Each Director, other than the Directors designated in the Articles of Incorporation of the Association, shall be a designated lot owner; or if a lot owner shall be a corporation, partnerships or trust, then an officer, partner, trustee or beneficiary of such lot owner. At such time as all or a portion of the CTF Property is subdivided, a special class of Board Members ( the "Special Class") shall be created, which shall consist of at least three (3) persons and shall be elected by all Members ( including Class C Members). Each Special Class Board Member shall be either an owner of lots 66-101 of the Subdivision, or the owner of a lot in the CTF Property Subdivision.

Section 5.2: The Board of Directors shall have the powers and duties necessary for the administration of the affairs of the Association and shall have all powers and duties referred to in the statutes of the State of Maine pertaining to corporations without capital stock, as amended from time to time. The powers of the Board of Directors shall include but not be limited to the following:

- (A) To elect the officers of the Association;
- (B) To administer the affairs of the Association;
- (C) To estimate an annual operating budget and the annual assessments contemplated, all for submission to the members for approval at the annual meeting, and to take all necessary or desirable action with respect to the collection from the lot owners or their respective shares of the estimated expenses as hereinafter provided;
- (D) To provide for the management, operation, resurfacing, maintenance, repair and removal of snow from the roads until and unless accepted by the Town of Newry;
- (E) To provide for the management, operation, maintenance, and repair of the property, including, if deemed advisable, the erection of any structures on such property; and
- (F) To take such other action with respect to the affairs of the Association as shall be necessary to effect its efficient operation.

Notwithstanding the foregoing, as to matters relating to the Fisher Road and Gene Thurlow Road, the Special Board rather than the Regular Board, shall have the power and authority to act.



Section 5.3: At the first annual meeting of members, a Regular Board of Directors shall be elected by the Class A and Class B members, which shall succeed the initial Directors. All Directors' terms ( Regular Board and Special Board Members) shall be staggered. At the expiration of the initial term of office each respective Director, his/her successor shall be elected to serve the term of three (3) years. The Directors shall hold office until their successors have been elected and qualified.

Section 5.4: Vacancies in the Board of Directors caused by any reason, including the failure of a Director to continue to meet the qualifications of office, shall be filled by vote of a majority of the remaining Directors of the same class ( i.e. Regular or Special) entitled to vote at a special meeting of the Board of Directors held for that purpose promptly after the occurrence of any such vacancy, even though the Directors present at such meeting constitute less than a quorum, and each Director so elected shall be a member of the Board of Directors for the remainder of the term of the replaced Director.

Section 5.5: Annual meetings of the Board of Directors shall be held immediately following the annual meeting of the members and at the same place. Special meetings of the Board may be called by the President or a majority of the Board on five (5) days notice to each Director by mail or telegram. Directors may waive notice of a meeting or consent in writing to or take any action without a formal meeting.

Section 5.6: At all meetings of the Board of Directors, a majority of the Directors shall constitute a quorum for the transaction of business and any action may be taken by said majority of the Directors.

Section 5.7: Any action required or permitted to be taken at any meeting of the Board of Directors may be taken without a meeting if a written consent thereto is signed by all the Directors. The Secretary shall file such written consent with the records of the meetings of the Board of Directors and such consent shall be treated as a unanimous vote of the Board of Directors for all purposes.

Section 5.8: Any Director may be removed from office by the vote of at least two-thirds (2/3) of the members of the Association entitled to elect Directors.

Section 5.9: The members of the Board of Directors and all officers of the Association shall not be liable to the Association for any mistake of judgment, negligence, or otherwise, except for their own individual willful misconduct or bad faith. The Association shall indemnify and hold harmless all officers and members of the Board of Directors against all contractual liability to others arising out of contracts made by the Board of Directors or officers on behalf of the Association unless any such contract shall have been made in bad faith or contrary to the provisions of these By-Laws.

Section 5.10: Directors shall receive no compensation for their services except as expressly provided by a resolution duly adopted by the Class A and Class B members.



## Article VI

### Officers

Section 6.1: The officers of the Association shall be a President, a Secretary, a Treasurer and such assistants to such officers as the Board of Directors may deem appropriate, which officers shall be elected at each annual meeting of the Board of Directors and shall hold office at the pleasure of the Board of Directors; provided that prior to the first annual meeting of the Board of Directors, the officers may be elected at any meeting of the Board of Directors.

Section 6.2: The duties of the officers of the Association shall be as follows:

- (A) The President shall be a Director and shall be the' Chief Executive Officer of the Association and shall preside at all meetings of the members of the Board of Directors;
- (B) The Secretary shall keep minutes of all meetings of the members of the Board of Directors and shall have custody of the Association's seal and have charges of the membership transfer books and such other books, papers and documents as the Board of Directors may prescribe;
- (C) The Treasurer shall be responsible for the Association funds and securities and for keeping full and accurate accounts of all receipts and disbursements in Association books of accounts kept for such purposes;
- (D) The same person may be elected and serve as Secretary and Treasurer.

Section 6.3: Any officer may be removed at any meeting by the affirmative vote of a majority of the members of the Board of Directors, either with or without cause.

Section 6.4: The officers shall receive no compensation for their services except as expressly provided by resolution duly adopted by the Directors.

## Article VII

### Operation of the Peaks Village Association

Section 7.1: The fiscal year of the Association shall begin on the first day of January each year, except for the first fiscal year of the Association, which shall begin on the date of the incorporation of the Association. The commencement date of the fiscal year herein established shall be subject to change by the Board of Directors.



**Section 7.2:** Books and accounts of the Association shall be kept under the direction of the Treasurer and in accordance with generally accepted accounting principles and practices. The Association shall furnish its members with a copy of the Federal Income Tax Returns in lieu of any financial statements required to be provided by the Association for each fiscal year when such returns are filed.

**Section 7.3:** The Association shall perform and be responsible for the repair, maintenance and improvement of the common areas, roads, and storm water management structures in the Peaks Village portion of The Peaks Subdivision using sound construction principles and in good and workmanlike fashion. Assessments by the Association upon the lots and the owners thereof, or others, shall be used for those purposes and to establish necessary reserves and working capital, and for such other purposes as shall be permitted by the By-Laws of the Association or as shall be deemed appropriate to the Board of Directors (hereinafter collectively called the "Common Expenses").

**Section 7.4:** No later than thirty (30) days prior to each annual meeting of the members of the Association, the Board of Directors shall estimate the Common Expense for the following year, and shall present such estimate to the members at their annual meeting as the proposed annual budget or such year. The annual assessment required to meet annual estimated Common Expenses for each subsequent year for all matters other than the Fisher Road and Gene Thurlow Road shall be approved by the Class A and Class B members acting as a single class. The annual assessment required to meet annual estimated Common Expenses related to the Fisher Road and Gene Thurlow Road shall be approved by all members (Class A, B and C) of the Association at their annual meeting, acting as a single class.

**Annual Assessment Calculation Formula:**

Each Peaks Village Lot Owner, Chadbourne Lot Owner and Reserved Land Lot Owner shall be responsible for  $1/x$  of Road Maintenance costs.

$x$  = the sum of:

- 1) thirty six ( being the number of approved Peaks Village lots , Lots 66- through 101, inclusive subject to this Declaration as of the date hereof),and
- 2) the number of Reserved Lot Owners, and
- 3) the number of Chadbourne Lot Owners. "Chadbourne Lot Owners" shall mean those party(ies) who own all or a portion of the CTF Property whose primary access is via the Fisher Road and/or the Gene Thurlow Road.

Initially, there shall be one (1) Chadbourne Lot Owner, i.e. Chadbourne Tree Farms, LLC, and for so long as Chadbourne Tree Farms owns any portion of such property, it shall be responsible for  $1/x$  of Road Maintenance costs. "Reserved Lot Owners" shall mean those party(ies) who own all or a portion of the Reserved Land (including any unit or co-op unit located thereon). The owner of each of Lots 66-101 shall be responsible for  $1/x$  of Road Maintenance costs. Maine Mountain Properties shall participate in



proportion to the sum of (a) the number of lots (i.e. 36) located in The Peaks Village portion of the Subdivision owned by it and (b) the number of lots, units or co-ops on the Reserved Land owned by it. The Homeowners' Association shall participate in proportion to the number of lots located in The Peaks Village portion of the Subdivision owned by it.

**Road Maintenance :** Road Maintenance shall mean maintenance for the Fisher Road and Gene Thurlow Road in accordance with the standards set forth in Section 7.3 above, but shall not include the cost of maintaining, improving or replacing rain gardens on lots in the Subdivision (other than vegetated filter strips). For the avoidance of doubt, Road Maintenance shall not include any work with respect to Subdivision common areas.

**Section 7.5:** All assessments shall be billed no later than thirty (30) days from the date said Association, by meeting, fixes said assessments. The Treasurer of the Association shall send bills therefore to the respective members at the address recorded in the Secretary's records either personally or by placing the bill in the United States Mail, postage prepaid, addressed to the lot owner as aforesaid. All sums so assessed and billed shall become due and payable within thirty (30) days from the date of said bill.

**Section 7.6:** The members of the Association may from time to time at special meetings levy additional assessments for the purposes previously provided by the same majority of votes as required for the annual assessments.

**Section 7.7:** The assessments authorized hereunder billed by the Association shall be a charge on the land and shall be a continuing lien upon the lot upon which such assessment is made, whether in or out of the Peaks Village section of The Peaks Subdivision. If the assessment to the lot owner shall not be paid within thirty (30) days after the date when due, then said assessment shall be delinquent and shall together with interest at the annual rate of eighteen (18%) per cent, costs of collection and reasonable attorneys' fees, become a continuing lien on the lots owned by the delinquent lot owners which shall be in the lot(s) with the buildings and improvements thereon in the hands of the delinquent lot owner, his heirs, devisees, successors, personal representatives, and assigns. Any lien may be enforced in the same manner as a lien for assessments against condominium units as provided in the Maine Unit Ownership Act, Chapter 10 of Title 33 of the Maine Revised Statutes Annotated, as amended.

**Section 7.8:**

"CTF Property" means:

(a) Those certain parcels of land situated in the Town of Newry further described in a Deed from Chadbourne Tree Farms Holdings, Inc. to Chadbourne Tree Farms, LLC, dated December 29, 2004, and recorded in the Oxford County Registry of Deeds (East) (the "Registry") in Book 3652 and Page 43; specifically:

1. All of the parcels conveyed by Carolyn O'Brien to Chadbourne Tree Farms, LLC by



deed dated December 17, 2004, and recorded in the Registry in Book 3645, Page 230.

2. Parcel 5 conveyed by Bayroot LLC to Chadbourne Tree Farms, LLC by deed dated July 30, 2004, and recorded in the Registry in Book 3568, Page 326.

3. All of the property conveyed by Fumiko I. Head to Chadbourne Tree Farms, LLC by deed dated January 23, 2004, and recorded in the Registry in Book 3454, Page 129.

4. Parcel 1 conveyed by Bethel Milling Company to P. H. Chadbourne & Co. by deed dated November 12, 1957, and recorded in the Registry in Book 677, page 427; and

(b) Any and all real property purchased by Chadbourne Tree Farms, its successor and assigns from the following abutters:

1. Leslie Robertson and his heirs and assigns and described in the Registry Book 3260, Page 22 or Book 2552, Page 152.

2. Gene A Auty, Trustee of the Gene A. Autey Revocable Living Trust under Declaration of Trust dated October 12, 2000, his successors, heirs and assigns and described in the Registry Book 3559, Page 236.

### Article VIII

#### Amendment

These By-Laws may be amended at any regular or special meeting of the members of the Association duly held in accordance with the provision of these By-Laws at which a quorum shall be present in person or by proxy by a vote of the lot owners holding of record not less than a majority of the votes in the Association entitled to be cast, provided that any amendment to these By-Laws on matters relating to the Fisher Road and Gene Thurlow Road, or the Class C membership interests, also shall require the affirmative vote of sixty-five (65%) of the Class C membership interests, voting as a separate class.

### Article IX

#### Committees

Section 9.1: The Board of Directors may, by a resolution adopted by a majority of the Directors then in office, designate from among its members or other lots owners one or more committees, each consisting of two (2) or more Directors or lot owners and may delegate to such



committee or committees such duties and responsibilities as they shall deem appropriate, to the extent permitted by law.

Section 9.2: In order to carry into effect the purposes of the protective covenants of The Peaks Village as set forth in the Declaration of Restrictive Covenants for The Peaks Village an Architectural Control Committee shall be maintained by the Association.

Section 9.3: Meetings of committees shall be held upon seven (7) days written notice given by the Secretary of the Association. A majority of the members of the committee shall constitute a quorum for the transaction of business. The act of a majority of the members of a committee present at a meeting shall be the act of the committee.

Each committee shall keep a record of its meetings and shall report to the Board of Directors from time to time on its affairs.

## Article X

### Rules and Regulations

Section 10.1: The Board of Directors may from time to time promulgate rules and regulations as shall be deemed necessary or appropriate to the efficient and orderly operation of the Association, and shall submit those to the members for their approval. Such approval shall be given by the members in accordance with Article VIII hereof.

## Article XI

### Miscellaneous

Section 11.1: The invalidity of any part of these By-Laws shall not impair or affect in any manner the validity, enforceability or effect of the balance of the By-Laws.

Section 11.2: The captions herein are inserted only as a matter of convenience and for reference, and in no way define, limit or describe the scope of these By-Laws, or the intent of any provision thereof. Reference in these By-Laws to sections without references to the document in which they are contained are references to these By-Laws.

Section 11.3: The use of the masculine gender in these By-Laws shall be deemed to include the feminine gender and the use of the singular be deemed to include the plural whenever the context so requires.



**Article XII**

**Enlargement of Subdivision**

In the event the Subdivision shall be enlarged from time to time, the Owners of any newly created lots shall be Members of this Association with all the rights and privileges thereof and provisions of the Articles and By-Laws of the Association shall apply equally with full force and effect to such new members.


**Article XIII**

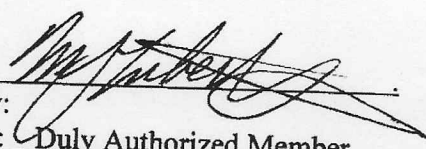
**Compliance with Easements, Restrictions and Covenants**

Section 13.1: These By-Laws are subject to the provisions of The Peaks Village Declaration of Restrictive Covenants dated June 10<sup>th</sup>, 2008 and recorded in the Oxford County Registry of Deeds in Book 4309 Page 99 as may be amended from time to time.

DATED this 10<sup>th</sup> Day of June, 2008

**Maine Mountain Properties, LLC**

  
\_\_\_\_\_  
Witness

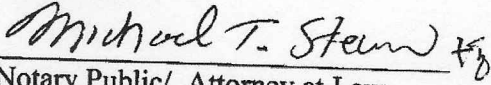
By:   
Its: Duly Authorized Member

STATE OF MAINE  
Oxford, ss.

June  
Date: ~~May~~, 2008

Then personally appeared the above named Michael S. Liberti and acknowledged the foregoing instrument to be the free act and deed of Maine Mountain Properties, LLC.

Before me,

  
\_\_\_\_\_  
Notary Public/ Attorney at Law  
Print Name: Michael T. Stearns  
My Commission Expires



DATED this 10<sup>th</sup> Day of June, 2008.

**THE PEAKS VILLAGE HOMEOWNERS  
ASSOCIATION**

By: Bruce Lilly  
Its President

STATE OF MAINE  
Oxford, ss

Date: June 10, 2008

Then personally appeared the above named Bruce Lilly and acknowledged the foregoing instrument to be the free act and deed of The Peaks Village Homeowners Association.

Before me,

Michael T. Steen Esq

Notary Public/Attorney-at-Law

Print Name: Michael T. Steen

My Commission Expires:

Received  
Recorded Register of Deeds  
Jun 10, 2008 02:16:27P  
Oxford East County  
Jane Rich