

BUFFALO/SITZMARKER SKI CLUB, INC.

(Operating Under the Name Buffalo Ski Club, Inc.)

Lower East Hill Road

Colden, New York

BY-LAWS

Published: February 7, 1991

Amended: May 3, 1992

Amended: May 3, 1997 & retyped to incorporate all Amendments

Amended: May 2, 1999

Amended: May 6, 2001 & retyped to incorporate all Amendments

Amended: May 4, 2003 & retyped to incorporate all Amendments

Amended: May 2, 2004 & retyped to incorporate all Amendments

Amended: November 9, 2004

Amended: May 4, 2008 & retyped to incorporate all Amendments

Amended: April 17, 2010

Amended: May 12, 2012 & retyped to incorporate all Amendments.

ARTICLE 1 - NAME AND OBJECT

Section 1 - Name

The name of this organization shall be Buffalo/Sitzmarker Ski Club, Inc. (doing business as Buffalo Ski Club, Inc.)

Section 2 – Objects

This is a Social Club in an Alpine atmosphere to promote fun and good fellowship among outdoorsmen, hikers, and winter sports enthusiasts.

ARTICLE 11 - MEMBERSHIP

Section 1 - Requirements

Any person or family of good character interested in the objects of this Club shall be eligible for membership.

Section 2 - Admission

Acceptance into membership shall be by the Board of Directors upon recommendation of the membership committee.

Section 3 - Membership Definition

Membership shall be one of the following:

- A. Individual
- B. Family - consisting of husband and/or wife and children less than 21 years of age, unless continuing education as a full time registrant in college or university and a member of the same family unit, up to an age limit of 25 years.
- C. Honorary - elected by unanimous vote of the Board of Directors, covered by a detailed written agreement.
- D. Inactive – Members who have paid full Initiation Fees are members for life. Members who are no longer participating as Individual, Family, Honorary, Social, or Limited members shall automatically revert to Inactive Member status.
- E. Social – Inactive Members who wish to participate in the Social Club, but are no longer actively participating in skiing may pay an annual Dues for the Social Club privileges.
- F. Limited – consisting of any other Class of Membership approved by the Board of Directors with limits on duration, voting, or ownership privileges.

Section 4 - Legacy

A legacy shall mean the child of a family member who has attained the age of 21 years and is not continuing his or her education, or the child of a family member who has attained the age of 25 years, and who desires to apply for an individual or family membership of their own. A legacy applicant will be given priority over all other forms of applicants with no waiting list restrictions.

Section 5 - Closing of Charter

The Charter may be closed at the discretion of the Board of Directors. Honorary, Inactive, and Social Members shall not be counted in the event of a Charter closing based on a numerical limit in the number of members.

Section 6 - Waiting List

If and when the charter is closed, approved applicants shall be registered on an official waiting list, available for inspection by Members and administered by the membership committee chairman under the advice and consent of the Board of Directors.

Section 7 - Changes in Classification

Upon written application to and approval by the Board of Directors, a member in good standing may change his or her membership classification. The Board of Directors may grant a deferral of a change in membership classification in special cases such as a person serving in the United States Armed Forces.

Section 8 – Resignations

A Member of the Club may resign at any time, but after December 1st, there shall be no refund of fees paid. Notice of all resignations by Members shall be in writing and directed to the President before any such resignation shall have any impact on the waiting list.

Section 9 - Expulsion or Suspension

Any Member may for cause and after having been given an opportunity for a hearing, be suspended or expelled from membership by a two-thirds vote of the Board of Directors. Cause for suspension or expulsion shall consist of violation of posted or published rules, or of conduct prejudicial to the interests of the Corporation.

ARTICLE III - FEES

Section 1 - Initiation fee

An initiation fee may be established at the discretion of the Board of Directors.

An individual applying under a legacy, however, shall be entitled to a reduction of the initiation fee. The amount of this reduction of initiation fee for legacy applicants shall be established by the Board of Directors on an annual basis (not on an individual basis).

At the discretion of the Board of Directors, fee(s) may be established for the reinstatement of Inactive Members. Such reinstatement shall be subject to any waiting list requirements as covered in Article II - Section 6.

Section 2 – Social Membership Dues

Dues for the Social Membership may be established at the discretion of the Board of Directors.

Section 3 - Fees Payable

Fees for prospective members are payable upon acceptance for membership.

Section 4 – Assessments

At its discretion, the Board of Directors may assess each membership, an amount equal to an equal share of the cost for major Capital Improvements (such as additional real estate purchases or sales, major building expansions, additional major equipment purchases such as chair lifts or new grooming machines, or other unplanned capital costs over \$100,000). Such assessments shall require Membership approval (simple majority).

Additionally; at its discretion, the Board of Directors may assess each membership, an amount equal to an equal share of the cost for extraordinary damage repairs, or restoration of skiing conditions resulting from unusual weather conditions, major equipment breakdowns, or other major changes in the un-anticipated operational costs of this privately owned ski area, which may result in the need for adjustments in our Lease Agreement with the company that operates our ski area. Such assessments would be limited to an aggregate \$100,000, and will not require prior membership approval.

ALL proposed Assessments over the aggregate \$100,000 limit must have prior membership majority approval. Such approval may be obtained by mail Proxy vote, or solicited through the various internet communications plus telephone calls for those who do not have internet addresses, or by Member meetings with appropriate notice as in Article IX, Section 1, or by other means that reach all the Active Members. Majority approval shall be determined from those Members who respond to the vote, not by total membership registration. .

Failure to pay Assessments by the designated date shall be cause for suspension of membership privileges until such Assessments are paid. Inactive Members returning to Active Member status shall be required to pay any Assessments they have missed during their inactive period. Assessment payment dates are not subject to the restrictions applicable to Season's Lift Pass payments. The Season's Lift Pass payments are to a different company that operates our ski area for the benefit of our Member/Owners.”

ARTICLE IV - OFFICERS

Section 1 - Officers

The officers of the organization shall be President, Vice President, Secretary and Treasurer. A single Officer may serve multiple Officer positions with approval of the Board of Directors.

Section 2 - President

The president shall preside at all meetings of the Club and of the Board of Directors. The President shall appoint chairmen of all standing committees, (except Finance). The President may appoint special committees. The President shall be authorized to sign all

contracts or other financial obligations of the Corporation that have a value less than \$2,500, and do not deal with the purchase or sale of real property assets. For contracts or other financial obligations in excess of \$2,500, prior approval of the Board of Directors shall be obtained, and a second Officer of the Corporation must co-sign. For real property assets, majority approval of the membership in attendance at a membership meeting, or a majority of the proxies submitted (if vote is taken by proxy), is required before the President and second Officer may sign. The President shall be ex-officio member of all committees. The President shall author a periodic newsletter during the ski season to keep all members informed of the activities and business of the Club.

Section 3 - Vice President

In the absence of the President, The President's duties shall be performed by the Vice President. The Vice President shall assist the President and perform whatever functions or duties assigned by the President.

Section 4 – Secretary

The Secretary shall be present at all regular meeting and shall keep the minutes of such as may be designated by the Board of Directors. The Secretary shall be responsible for all official correspondence for the Club, and shall be responsible for filing copies of all official correspondence. The Secretary shall be responsible for issuing all official meeting notices required by these By-Laws. The Club Business Manager may assist the Secretary in the performance of these duties.

Section 5 - Treasurer

The Treasurer is responsible for the oversight of the Club's finances, inclusive of debt and deposits of the Club, and the financial oversight of entities that may be engaged by the Club to administer operations. The Treasurer may keep accounts of all receipts of new member initiations, and in concert with the Club's Business Manager maintain the roster of active (voting) members and may assist the Business Manager in the preparation of monthly financial statements. The Treasurer shall be ex officio Chairperson of the Finance Committee. The Treasurer may annually nominate to the Board of Directors an outside Certified Public Accountant, such nomination to be confirmed by the Board of Directors. The CPA will be accountable to the Board of Directors.

Section 6 - Board of Directors

The Board of Directors shall be the governing body of the organization. The Board will represent the Member/Owners of the Corporation and will provide fiscal control over the Club's assets. The Board of Directors shall consist of seven members.

The Board of Directors may authorize the Committee Chairpersons, to hire full time, or part time employees, or independent contractors or vendors, to perform portions of the work and services of the Club, subject to the budgets approved by the Board of Directors for said committees. Such employment shall be subject to the published policies as set forth by the Board of Directors.

The Board of Directors may lease the Club's property and equipment to a Limited Liability Company (LLC) to operate as a ski area for the benefit of the Members and open to the general public. The LLC shall set season's lift pass rates consistent with covering the cost of safe operation, and shall be sufficient to pay the lease fees without profit.

The Board of Directors may also choose to allow another (or the same) LLC to provide Instruction in skiing and snowboarding skills and safe winter sportsmanship on the Club's property for the benefit for the Members. This LLC shall set rates to cover all expenses and to pay a "User's Fee" to the Club for the use of the Club's property without profit to this LLC.

A Director shall automatically be eliminated from the Board by his or her absence from 3 consecutive meetings unless special action is taken by the Board to maintain the absent Director's membership on the Board.

In the event of a tie vote in the Board meetings, the President's vote shall be the tiebreaker.

Any Director may resign at any time by giving written notice to the President . Such resignation shall take effect at the time specified therein and acceptance of such resignation shall not be necessary to make it effective.

The Board of Directors shall, at each annual meeting, present the report required by Section 46 of the Membership Corporation Law.

Section 7 - Term of Office

The President shall serve normally for one year and may succeed for one more year, after which the President shall be ineligible for re- election to the office until one year elapses. A Director shall serve normally for three years after which there is one year of ineligibility. A Director shall be eligible for re-election as a Director serving as an Officer or as an Officer finishing the term of office.

Section 8 - Vacancies

If the office of any Director becomes vacant for any reason, the Directors remaining in office by a majority vote may choose a successor who shall hold office for the unexpired term.

Section 9 - Indemnity

This section details indemnification of Officers, Directors, employees and volunteer member workers (VMW) for expenses and losses resulting from lawsuits brought against them.

A. Indemnification for Derivative Suits: The Buffalo/Sitzmarker Ski Club Inc. shall indemnify any person made, or threatened to be made, a party to an action or proceeding brought by or in the right of the Club to procure a judgment in its favor by reason of the fact that he, his testor or intestate, is or was a Director, Officer, employee, or volunteer member worker of the Club, or is or was serving any other corporation or entity in any capacity at the direction of the Club, against amounts paid in settlement and reasonable expenses including attorney's fees actually and necessarily incurred in defense or settlement of such actions or proceedings, or in any appeal therein, provided that such Director, Officer, employee or volunteer member worker acted in good faith for a purpose which he or she reasonably believed to be in the best interest of the Club or, in the case of service for any other corporation or entity, not opposed to the best interest of the Club; except that no indemnification shall be required in respect of a: 1) A threatened or pending action which is settled or otherwise disposed of without notice to and approval by the Board of Directors of the Club; and 2) any claim, issue or matter as to which such person shall have been adjudged to be liable to the Club, unless the Court in which such action or proceeding is brought (and if no action is brought, any court of the competent jurisdiction) determines upon application that, in view of all the circumstances of the case, the person is fairly and reasonably entitled to indemnity for such portion of the settlement amount the Court deems proper.

B. Indemnification for Non-Derivative Suits: The Buffalo/Sitzmarker Ski Club, Inc. shall indemnify any person made, or threatened to be made, a party to an action or proceeding other than one by or in the right of The Corporation to procure judgment in its favor, whether civil or criminal, including an action by or in the right of any other corporation or entity which any Director, Officer, employee or volunteer member worker of the Buffalo/Sitzmarker Ski Club, Inc. served in any capacity at the request of the Club, by reason of the fact that he, his testor or intestate is or was a Director, Officer, employee or volunteer member worker of the Club, or served such other corporation or entity in any capacity, against judgments, fines, amounts paid in settlement and reasonable expenses including attorney's fees actually and necessarily incurred as a result of such action or proceedings, or any appeal therein, provided that such Director, Officer, employee or volunteer member worker acted in good faith for a purpose which he reasonably believed to be in the best interest of the Club or, in the case of service for any other corporation or entity, not opposed to the best interest of the Club; and, in criminal actions or proceedings, in addition, had no reasonable cause to believe his conduct was unlawful.

C. Permissive Payments: In addition to the forgoing, the Board of Directors shall indemnify a Director, Officer, employee or volunteer member worker or his estate, for loss and expenses incurred as a result of actions or proceedings brought against him by reason of being a Director, Officer, employee or volunteer member worker to the fullest extent permitted by the New York Not for Profit Corporation Law.

D. The above indemnity shall exist in perpetuity.

ARTICLE V - ELECTION OF DIRECTORS AND OFFICERS

Section 1 - Time

At the Annual Meeting Members shall fill such vacancies on the Board of Directors for the coming year as will result from the expiration of the term of any Director. The Board of Directors shall then elect the President and Vice President from its own ranks, and a Secretary and Treasurer from the membership or from the Board of Directors.

Section 2 - Eligibility

All Officers and Directors to be elected must have been Members in good standing from February 1 of the year previous to the date of election.

Section 3 - Nominating

Before the Annual Meeting, a nominating committee shall select a slate of one or more nominee for each vacant Directorship, and this slate shall be included in the annual meeting notice. Other nominations may be made from the floor at the time of the election.

Section 4 - Vote

Votes shall be counted as one (1) per membership and shall be cast only by those members in good standing who are eighteen years of age or older. In a Family Membership, the family member who is listed as the first member on the Fees Invoice shall have priority for the voting right.

ARTICLE VI - STANDING COMMITTEES

Section 1 - Standing Committees

The standing committees shall receive their authority and direction from the Board of Directors, and shall be as follows:

- | | |
|---------------|-----------|
| a. Finance | c. House |
| b. Membership | d. Social |

Section 2 - Chairmen

The chairmen of all standing committees (except Finance) shall be appointed by the President and shall report to the Board of Directors at such time as the Board of Directors may designate.

ARTICLE VII - MEETINGS

Section 1 - Call

The Board of Directors shall call an Annual Membership Meeting once per year, after the ski season, before the end of May. This meeting shall be the Corporation's Annual Meeting. Additional meetings may be called by the Officers, Board of Directors, or any 20 members, to discuss and act upon any business of the corporation.

Section 2 - Notice

Notice of every annual or special meeting of the members shall be given by mail to the members at least 10 days prior thereto. Notice of every special meeting shall state the place, day and hour of such meeting and the purpose for which said meeting is called, and no business shall be transacted at said special meeting except that set forth in the notice. No notice of an adjourned meeting of the members need be given other than an announcement at the meeting.

The Annual Meeting shall be for the purpose of electing Directors for the following year, presenting committee reports, and for the transaction of any other business within the powers of the Corporation without special notice of such business, except in any case in which special notice is required by statute or by these By-Laws.

The mailing of notice to the last known address of the members shall constitute notice.

Section 3 - Quorum

A quorum for any general membership meeting shall consist of 10% of the voting membership of the Club, or 40 members, whichever is the lesser number.

A quorum for a Board of Director's meeting shall consist of a simple majority of the currently active Directors including one Officer.

Section 4 - Voting

Except in cases which it is by statute, by the certificate of incorporation, or by these By-Laws, articles of business shall be passed by a simple majority of the votes cast, a quorum being present, and shall be counted as in Article V, Section 4.

Voting may be by show of hands, but any ten members shall have the right to demand vote by ballot.

Voting for amendments to these By-Laws shall be referenced to Article IX, Section 1.

Voting by proxy shall be allowed subject to the following conditions: voting shall be in accord with Article V, Section 4 (one vote per membership, cast by a member in good standing at least 18 years of age), all proxies shall be in writing and signed by the Member, all proxies shall count towards the Quorum (Article VII, Section 3 as may be amended above), except as hereinafter set forth, any person holding more than five

proxies must notify the President of the corporation in writing at least five days in advance of the meeting. Any person who has not notified the President as provided in this By-Law shall not be permitted to vote more than five proxies at such meeting. Any person holding proxies solicited by or on behalf of the Board of Directors shall not be required to give notice as hereinabove provided and shall not be limited by the number of proxies such person may exercise.

Section 5 - Board of Director's Meetings

The Board of Directors shall meet at least once per month during the months of September through May, and at other times and intervals as the Board may deem necessary. Special meetings of the Board of Directors may be called by the President or by any three members of the Board of Directors. Telephone meetings shall be permitted when time critical issues arise as long as no Director objects to the telephone meeting.

Section 6 - Meeting With the Board

Members shall have the privilege of presenting and discussing pertinent issues with the Board at regular Board meetings.

Section 7 - Notice of Board of Director's Meetings

Notice of each meeting of the Board of Directors stating the time and place thereof shall be given to each member of the Board not less than three days before the meeting. Meetings of the Board of Directors may also be held at any place or time without notice by unanimous consent of all the Directors or provided that all the Directors are present at such meeting.

ARTICLE VIII - DISSOLUTION

Section 1 - Dissolution

The Buffalo/Sitzmarker Ski Club Inc. may be dissolved and its charter retired by special vote of the current members in good standing. This action may lead to complete dissolution of this organization, in which case all liabilities must be satisfied and its assets liquidated, or, this action may be to merge with some other organization or otherwise change the Constitution and By-Laws, whereby the form of this Club organization is changed.

Section 2 - Initiation of Motion to Dissolve

The motion to dissolve the Club may be initiated by the Board of Directors, or from the floor at any regular or special meeting of the Club by any Member in good standing. The motion to dissolve must be acted upon at a special meeting of the membership no sooner than six months, nor later than nine months from the date of the motion. This special meeting must be set by separate motion at the time of the motion to dissolve. At this special meeting, no other business may be acted upon before the motion to dissolve.

Section 3 - Voting

The motion to dissolve may be passed by two-thirds of the total vote count of the membership present and shall be counted as in Article V - Section 4. Voting on a motion to dissolve shall be by written ballot.

Section 4 - Notice

All Members must be notified by mail of this motion to dissolve and this special meeting not later than five months before the special meeting.

Section 5 - Resolution

Upon passage of a motion to dissolve the Club, the Board of Directors shall take appropriate action to resolve the dissolution.

In the case of total dissolution, the Board of Directors shall satisfy all debts and liabilities of the Club, and sell all remaining assets. After all costs and taxes have been paid, any remaining funds shall be distributed to those Members eligible to vote on the motion to dissolve. The distribution shall be to each membership as defined in Article II - Section 3 except no such distribution shall be made to Inactive Members, in equal shares, share and share alike.

ARTICLE IX - AMENDMENTS

Section 1 - Amendments

These By-Laws may be amended by a two-thirds vote of the membership (voting) present at any regular or special meeting of the Club. Amendments must be proposed in writing to the Board of Directors as well as submitted fifteen (15) days in advance to the entire membership before they are presented for vote of approval.

Section 2 - Amendments approved at the May 3, 1992 Annual Membership Meeting, and at the May 3, 1997 Annual Membership Meeting have been incorporated into the above By-Laws when they were re-typed in May, 1997.

Section 3 - Amendments approved at the May 2, 1999 Annual Membership Meeting and at the May 6, 2001 Annual Membership Meeting have been incorporated into the above By-Laws when they were re-typed in May, 2001.

Section 4 – Amendments approved at the May 4, 2003 Annual Membership Meeting have been incorporated into the above By-Laws when they were re-typed in May, 2003.

Section 5 –The Amendments herein proposed shall be reviewed, edited, and approved by the Board of Directors for submittal to the general Membership at the Annual Membership Meeting in the spring of 2004.

Section 6 – The Amendments approved at the May 2, 2004 Annual Membership Meeting have been incorporated into the above By-Laws when they were retyped in November, 2004.

Section 7 – The Amendments approved at the May 4, 2008 Annual Membership Meeting have been incorporated into the above By-Laws when they were retyped in May, 2008.

Section 8 – The Amendments Proposed at the April 17, 2010 Annual Meeting have been incorporated in the By-Laws. Article III, Section 4 was revised to give the Board of Directors broader powers to assess the Members in emergency situations, while still maintaining Membership control over major capital improvements. Also the size of the Board of Directors was reduced to 7 members.

Section 9 – The Amendments approved at the May 12, 2012 Annual Membership Meeting have been incorporated into the above By-Laws when they were retyped in November 2012.

- **Changed wording of Article IV§5 “Officers”**
 - **Was:** “The Treasurer shall be responsible for all monies of the Club and shall deposit same to the credit of the organization in such depositories as may be approved by the Board of Directors. The Treasurer shall keep accounts of all receipts and expenditures which shall be open at all times to the inspection of the Board of Directors and to the membership. The Treasurer may be assisted by the Club’s Business Manager in the performance of the Treasurer’s duties. The Treasurer’s duties shall also include sending out of notices concerning assessments (if any), fees and membership status. The bills and notices shall be considered properly posted if they are mailed to the member’s last known address. The Treasurer shall be ex-officio Chairperson of the Finance Committee.”
 - **Reason for change:** The present language is a carry-over from the days when the Club did not have a full-time business manager employed by the LLC and the Club’s finances were handled by members on a volunteer basis. The practice for the past several years is for a Treasurer to be appointed from the members of the Club’s board, who then is responsible for oversight of the Club’s finances but does not actively maintain the accounts.

- **Change wording of the first para of Art. IV§6 “Officers”**
 - **Was:** “The Board of Directors shall be the governing body of the organization. The Board will represent the Member/Owners of the Corporation and will provide fiscal control over the Club’s assets. The Board of Directors shall consist of ten (7) members, including six (6) elected members plus the immediate past President.”
 - **Reason for change:** The new language would (1) correct the typo, “ten (7)” to “seven” (which survived the last amendment to this provision, and (2) eliminate the current practice of making the immediate past President of the Club, who is chosen by the board from among its members, an *ex officio* member of the board. The board is of the opinion that this is not necessary and results in confusion as to the composition of the board.

- **Change the wording of Art. 5 § 1, “Election of Directors and Officers”:**
 - **Was:** “At the Annual Meeting, Members shall elect three (3) Members of the Board of Directors. The Board of Directors shall then elect the President and Vice President from its own ranks, and a Secretary and Treasurer from the membership or from the Board of Directors.”
 - **Reason for change:** With the change effective in 2009 to a board of seven members, there may not be three board positions opening up every year. This change would bring the language of the bylaw into conformity with the necessary practice.