

**BY-LAWS
OF
THE HORNBUCKLE PROPERTY OWNERS ASSOCIATION**

AWO: Refer to Reference Guideline "A"

ARTICLE I - NAME AND LOCATION

The name of the Association is THE HORNBUCKLE PROPERTY OWNERS ASSOCIATION, INC. The principal office of the Association shall be located at 15 Motevista Road, Asheville, Buncombe County, North Carolina 28806; but meetings of members may be held at such places within the State of North Carolina as may be designated by the Board of Directors.

AWO: Refer to Reference Guideline "B"

ARTICLE II - DEFINITIONS

Section 1. "Association" shall mean and refer to The Hornbuckle Property Owners Association, Inc., and its successors and assigns.

AWO: Refer to Reference Guideline "A"

Section 2. "Declaration shall mean and refer to the Declaration of Covenants, Conditions and Restrictions applicable to the property and recorded on the ____ day of _____, 19____, in the Public Records of Jackson County, North Carolina, in the Official Records Book _____. Page_____.

Section 3. "Property" shall mean and refer to those parcels of land depicted on the Composite Plat of Hornbuckle, as recorded in Plat Cabinet 4, Slide 596, in the office of the Register of Deeds of Jackson County, North Carolina; and as depicted on four plats of Cranberry Falls Development Corporation as recorded in Plat Cabinet 3, Slides 265, 267, 268 & 269; and as depicted on the plat of Cranberry Falls as recorded in Plat Cabinet _____, Slide _____, in the office of the Register of Deeds of Jackson County, North Carolina.

Section 4. "Lot" shall mean and refer to any tract of land shown on the composite plat of the property.

Section 5. "Member" shall mean and refer to any person entitled to membership in the Association as provided by the Declaration.

Section 6. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of the fee simple title to any lot which is part of the property, excluding those holding title merely as security for the performance of an obligation.

ARTICLE III - MEETING OF THE MEMBERS

Section 1. **Annual Meetings.** The first annual meeting of the members shall be held within one year from the date of incorporation of the Association. Subsequent annual meetings of members shall be held on the first Saturday in October at a place and time selected by the Directors.

AWO: Refer to Reference Guideline "C"

Section 2. **Special Meetings.** Special meetings of members may be called at any time by the President or by the Board of Directors or on written request of members who are entitled to vote.

Section 3. **Notice of Meetings.** Written notice of each meeting of members shall be given by, or at the direction of, the Secretary or other person authorized to call the meeting, by mailing a copy of such notice, postage prepaid, at least thirty (30) but not more than sixty (60) days before such meeting to each member entitled to vote thereat, addressed to the member's address last appearing on the books of the Association, or supplied by such member to the Association for the purpose of receiving notice. Such notice shall specify the day, hour and place of the meeting, and in the case of a special meeting, the purpose of the meeting.

Section 4. **Quorum (20%).** The presence at the meeting, in person or proxy, of members entitled to cast a majority of the votes shall constitute a quorum for authorization of any action, except as may otherwise be provided in the Declaration, the Articles of Incorporation, or these By-Laws. If a quorum is not present at the meeting, the members entitled to vote thereat shall have the power to adjourn the meeting from time to time, without notice other than announcement at the meeting, until a quorum is present.

AWO: Refer to Reference Guideline "D"

Section 5. **Proxies.** At all meetings of members, each member may vote in person or by proxy. All proxies shall be in writing and filed with the Secretary. Proxies may be revocable, and the proxy of any owner shall automatically terminate on conveyance by him of his lot.

AWO: Refer to Reference Guideline "E"

**ARTICLE IV - BOARD OF DIRECTORS;
TERM OF OFFICE; FIRST ELECTION; REMOVAL**

- Section 1. **Number.** The affairs of the Association shall be managed by at Board of seven (7) Directors who must be members of the Association.
- Section 2. **Term of Office.** At the first annual meeting, the members shall elect four (4) directors for a term of two (2) years and three (3) directors for a term of one (1) year. At each annual meeting thereafter, the members shall elect the appropriate number of directors for a term of one (1) year.

AWO: Refer to Reference Guideline "F"

- Section 3. **Removal.** Any Director may be removed from the Board, with or without cause, by a majority vote of the members of the Association. In the event of death, resignation, or removal of a Director, his successor shall be selected by the remaining members of the Board and shall serve the unexpired term of his predecessor.
- Section 4. **Compensation.** No Director shall receive compensation fro any service he may render to the Association. However, any Director may be reimbursed for his actual expenses incurred in the performance of his duties, excluding transportation and temporary lodging expenses.

**ARTICLE V - BOARD OF DIRECTORS;
NOMINATION AND ELECTION**

- Section 1. **Nomination.** Nomination for election to the Board of Directors shall be by a nominating committee. However, nomination may also be made from the floor at any annual meeting of the members. The nominating committee shall consist of a chairman who shall be a member of the Board of Directors and two or more members of the Association. The Committee shall be appointed by the Board of Directors prior to each annual meeting to serve from the close of such meeting until the close of the next annual meeting, and such appointment shall be announced at each annual meeting. The nominating committee shall make as man nominations for election to the Board of Directors as it shall in its discretion determine, but in no event shall it nominate less than the number of vacancies to be filled.

AWO: Refer to Reference Guideline "G"

- Section 2. **Elections.** Elections of the Board of Directors shall be by secret written ballot. At such election the members of their proxies may cast, in respect to each vacancy, as many votes as they are entitled to exercise under the provisions of the Declaration. Persons receiving the largest number of votes shall be elected. Cumulative voting is not permitted.

AWO: Refer to Reference Guideline "E"

ARTICLE VI - BOARD OF DIRECTORS; MEETINGS

Section 1. **Regular Meetings.** Regular meetings of the Board of Directors may, at the discretion of the Board of Directors, be held semi-annually without notices, at such place and hour as may be fixed from time to time by resolution of the Board.

AWO: Refer to Reference Guideline "H"

Section 2. **Special Meetings.** Special Meetings of the Board of Directors shall be held when called by the President of the Association, or by any two (2) Directors, after not less than three (3) days notice to each Director.

Section 3. **Quorum.** A majority of the Directors shall constitute a quorum for the transaction of business. Every act performed or decision made by a majority of Directors present at a duly-held meeting in which a quorum is present shall constitute the act of decision of the Board.

ARTICLE VII - BOARD OF DIRECTORS; POWERS AND DUTIES

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

(a) Exercise on behalf of the Association all powers, duties, and authority vested in or delegated to the Association and not specifically reserved to the membership by the Declaration, Articles of Incorporation, or by other provisions of these BY-LAWS;

(b) Declare the office of a member of the Board of Directors to be vacant in the event that such member is absent from two (2) consecutive regular meetings of the Board of Directors;

(c) Employ independent contractors and such other persons as they may deem necessary, and to prescribe their duties; and

(d) Suspend the voting rights of any member during any period in which such member is in default in payment of any assessment levied by the Association.

(e) Establish, levy and collect Association membership annual dues from members of the Association. Dues will be established on a per lot basis where more than one member owns the same lot; and on a per member basis where one member owns several lots. The purpose of dues is to provide and pay for the administration expenses of the Association and for the following:

(1) Liability Insurance insuring the Association against any and all Liability to the public, to any owner, or to the invitees or tenants of any owner arising out of their occupation and/or use of the roads. The policy limits shall be set by the Association, and shall be reviewed at least annually and increased or decreased in the discretion of the Association.

(2) A standard fidelity bond covering all members of the Board of Directors of the Association and all other employees of the Association in an amount to be determined by the Board of Directors.

AWO: Refer to Reference Guideline "T"

Section 2.

Duties. It shall be the duty of the Board of Directors to:

(a) Cause to be kept a complete record of all its acts and corporate affairs and to present a statement thereof to the members at each annual meeting, or at any special meeting at which such statement is requested in writing by one-fourth of the members entitled to vote thereat;

(b) Supervise all officers, agents, and employees of the Association and see to it that their duties are properly performed;

(c) As more fully provided in the Declaration, to:

(1) Fix the amount of the annual assessment against each lot at least sixty (60) days in advance of each annual assessment period;

AWO: Refer to Reference Guideline "J"

(2) Send written notice of each assessment to every owner subject thereto at least sixty (60) days in advance of each annual assessment period;

(d) Issue, or cause an appropriate officer to issue, on demand by any person, a certificate setting forth whether or not any assessment has been paid. A statement in a certificate to the effect that an assessment has been paid shall constitute conclusive evidence of such payment. The Board may impose a reasonable charge for the issuance of these certificates.

(e) Procure and maintain adequate liability and hazard insurance of all property owned by the Association.

(f) Cause all officers or employees having fiscal responsibilities to be bonded, as it may deem appropriate.

AWO: Refer to Reference Guideline "T"

(g) Cause the roads to be maintained

ARTICLE VIII - OFFICERS AND THEIR DUTIES

Section 1. Enumeration of Officers. The officers of the Association shall be a President and Vice President, who shall at all times be members of the Board of Directors, and a Secretary, Treasurer, and such other officers as the Board may from time to time by resolution create.

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

AWO: Refer to Reference Guideline "K"

Section 3. Term. The officers of the Association shall be elected annually by the Board. Each shall hold office for that term unless he has sooner resigned, or shall be removed or otherwise disqualified to serve.

AWO: Refer to Reference Guideline "K"

Section 4. Special Appointments. The Board may elect such officers as the affairs in 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.

Section 5. Resignation and Removal. Any officer may be removed from office by the Board at any time with or without cause. Any officer may resign at any time by giving written notice to the Board, the President or the Secretary. Such resignation shall take effect on the date of receipt of such notice or at any later time specified therein, and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

Section 6. Vacancies. A vacancy in any office may be filled by appointment of the Board. The officer appointed to such vacancy shall serve for the unexpired term of the officer he replaces.

Section 7. Multiple Offices. No person shall simultaneously hold more than one office 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:

(a) **President.** The President shall preside at all meetings of the Board of Directors; shall see that orders and resolution of the Board are carried out; shall appoint committee members; shall sign all leases, mortgages, deeds and other instruments, and shall co-sign all checks and promissory notes.

(b) **Vice-President.** The Vice-President shall act in the place of the President in the event of his absence, inability or refusal to act, and shall exercise and discharge such other duties as may be required of him by the Board.

(c) Secretary. The Secretary shall record the votes and keep the minutes of all meetings and proceedings of the Board and of the members; keep the corporate seal of the Association and affix it to all papers so requiring; serve notice of meeting of the Board and of members; keep appropriate current records showing the members of the Association together with their addresses; and perform such other duties as may be required by the Board or by law.

(d) Treasurer. The Treasurer shall receipt and deposit in an appropriate bank account all funds of the Association, and shall disburse such funds as directed by resolution of the Board of Directors; shall sign all checks and promissory notes of the Association; shall keep proper books of account; shall cause an annual audit of the Association books to be made by a certified public accountant at the completion of each fiscal year, and shall prepare an annual budget and statement of income and expenditures, a copy of which document shall be delivered to each member, and a report on which shall be given at the regular annual meeting of the members.

AWO: Refer to Reference Guideline "L"

ARTICLE IX - COMMITTEES

The Association shall appoint a nominating committee as provided in Article V of these By-Laws, and a road maintenance committee as provided in Article X of these By-Laws. In addition, the Board of Directors may appoint such other committees as it may deem appropriate in the performance of its duties.

AWO: Refer to Reference Guideline "I"

ARTICLE X - ROAD MAINTENANCE COMMITTEE

- Section 1. **Aims and Goals.** It shall be the aim and goal of the Association to maintain all platted roads in the good condition, to establish permanent drainage systems, and to bring said roads to such condition as to be acceptable and to meet Jackson County road standards. When county road standards are achieved, it shall be the goal of the Association to transfer ownership of the roads and responsibility for maintenance of the same in perpetuity to the County of Jackson.
- Section 2. **Standing Committee.** The Association shall have at all times, A Road Maintenance Committee which shall consist of a member chairman and at least two additional members. At such time as road ownership and maintenance responsibility shall be transferred to the county, this committee may be declared by majority vote of the Board of Directors to be dissolved; and an amendment to this instrument so stating shall be recorded.
- Section 3. **Term of Office.** The Association members shall elect at least three (3) committee members for a term of one year. At each annual meeting thereafter, the Association shall elect at least three (3) committee members for a term of one year. Committee members shall select one of the committee as Chairman.

AWO: Refer to Reference Guideline "M"

- Section 4. Removal.** Any committee member may be removed from the committee, with or without cause, by a majority vote of the members of the Association. In the event of death, resignation, or removal of a committee member, his successor shall be selected by the Board of Directors and shall serve the unexpired term of his predecessor.
- Section 5. Compensation.** No committee member shall receive compensation for any services he may render to the Association. However, any committee member may be reimbursed for his actual expenses incurred in the performance of his duties, excluding transportation and temporary lodging expenses.
- Section 6. Nomination.** Nomination for election to the Road Maintenance Committee shall be by a nominating committee. However, nomination may also be made from the floor at any annual meeting of the members. The nominating committee shall consist of a chairman who shall be a member of the Board of Directors and two or more members of the Association. The committee shall be appointed by the Board of Directors prior to each annual meeting to serve from the close of such meeting until the close of the next annual meeting, and such appointment shall be announced at each annual meeting. The nominating committee shall make as many nominations for election to the Road Maintenance Committee as it shall in its discretion determine, but in no event shall it nominate less than the number of vacancies to be filled.
AWO: Refer to Reference Guideline "M"
- Section 7. Election.** Election of the Road Maintenance Committee shall be by secret written ballot. At such election the members of their proxies may cast, in respect to each vacancy, as many votes as they are entitled to exercise under the provisions of this Declaration.
AWO: Refer to Reference Guideline "M"
- Section 8. Regular Meetings.** Regular meetings of the Road Maintenance Committee shall be held at such place and hour as may be fixed from time to time by resolution of the Committee.
- Section 9. Duties.** It shall be the duty of the Road Maintenance Committee to:
- (a) Develop a road and drainage development plan which shall lead toward the goal of transferring road maintenance responsibilities to the County;
 - (b) Develop an annual road and drainage maintenance plan which shall ensure the maintenance, repair and improvement of the roads and drainage on a continuing basis;
 - (c) Prepare a proposed annual budget and submit same to the Board of Directors at its second semi-annual meeting. The budget shall be approved at the annual Association meeting;
 - (d) Solicit and accept competitive bids for maintenance work. Select the most practical bid and recommend contract action to the Board;
 - (e) Inspect and approve contracted maintenance work progress/completion and certify same to the Board;
 - (f) Perform or cause to be performed such other tasks as the Board from time to time shall decide.

AWO: Refer to Reference Guideline "I"

ARTICLE XI - ASSESSMENTS

As more fully provided in the Declaration, each member is obligated to pay the Association an annual assessment. Any assessments not paid when due are considered delinquent. No owner may waive or otherwise escape liability for assessments by non-use of the roads or abandonment of his lot.

AWO: Refer to Reference Guideline "N"

ARTICLE XII - BOOK AND RECORDS: INSPECTIONS

The books, records, and papers of the Association shall be subject to inspection by any member upon request. The Declaration, Articles of Incorporation, and By-Laws of the Association shall be available for inspection by any member at the principal office of the Association, where a copy shall be made available for sale at a reasonable price.

AWO: Refer to Reference Guideline "O"

ARTICLE XIII - CORPORATE SEAL

The Association shall have a seal in circular form having within its circumference the words "Hornbuckle Property Owners Association, Inc., a North Carolina nonprofit corporation."

AWO: Refer to Reference Guideline "P"

ARTICLE XIV - FISCAL YEAR

The fiscal year of the Association shall be the calendar year, except that the first fiscal period shall begin on the date of incorporation and shall end on December 31st of the year of incorporation.

AWO: Refer to Reference Guideline "Q"

ARTICLE XV - AMENDMENTS

These By-Laws may be amended, at a regular or special meeting of the members, by vote of a majority of a quorum of members present in person or by proxy.

AWO: Refer to Reference Guideline "R"

ARTICLE XVI - CONFLICTS

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

**BY-LAWS REFERENCE GUIDELINE
"AS WE OPERATE" (AWO)**

- A** Currently operating under "Hornbuckle/Cranberry Property Owners Association"
- B** Current mail address of the Hornbuckle/Cranberry Property Owners Association is: 9 Plott Balsam Road Maggie Valley, NC 28751
- C** First Saturday of August
- D** Meetings held with no consideration to a quorum
- E** Proxies have never been utilized/secret ballots have been used only once (to our knowledge)
- F** Term of office has generally remained 4 Directors at 2 years and 3 Directors at 1 year
- G** Nominating Committee has not always been utilized in the past
- H** A two week notice of all Board of Directors meetings shall be posted on the community bulletin board
- I** Has never been enforced
- J** Not completed consistently on an annual basis
- K** Election of Officers is voted on by the members at the Annual Members Meeting with the Nominating Committee submitting a proposed slate to be voted on at that said meeting.
- L** A certified public accountant has not audited the books of the Association
- M** The members at the Annual Members Meeting elect a Road Committee Chairman only
- N** Not all members have paid their annual dues.
- O** The Secretary of the Association provides the requested information
- P** Seal is missing
- Q** Fiscal year is from Annual Members meeting to Annual Members meeting