

**BY-LAWS
OF
THE SETTLEMENT AT THOMAS DIVIDE PROPERTY OWNERS'
ASSOCIATION, INC.**

ARTICLE I

The name of the corporation is THE SETTLEMENT AT THOMAS DIVIDE PROPERTY OWNERS' ASSOCIATION, INC., hereinafter referred to as the "Association". The principal office of the corporation shall be located at 470 McCracken Road, Bryson City, NC 28713, but the meetings of members and directors may be held at such places within the State of North Carolina, County of Swain as may be designated by the Board of Directors.

**ARTICLE II
DEFINITIONS**

Section 1. "Association" shall mean and refer to THE SETTLEMENT AT THOMAS DIVIDE PROPERTY OWNERS' ASSOCIATION, INC., its successors and assigns.

Section 2. "Properties" shall mean and refer to that certain real property described in the Declaration of Planned Community, Covenants, Restrictions, and Easements for THE SETTLEMENT AT THOMAS DIVIDE Subdivision and such additional property thereto as may hereafter be brought within the jurisdiction of the Association.

Section 3. "Lot" shall mean and refer to any tract of land shown upon any recorded subdivision map of the Properties or individual lots conveyed from Declarant to Owners or their successors in title.

Section 4. "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 a part of the Properties, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

Section 5. "Declarant" shall mean and refer to Bryson City Horse Property, LLC, his successors and assigns if such successors and assigns should acquire more than one undeveloped Lot from the Declarant for the purpose of development.

Section 6. "Declaration" shall mean and refer to the Declaration of Planned Community, Covenants, Restrictions, and Easements for The Settlement at Thomas Divide Subdivision

applicable to the Properties recorded in the Office of the Register of Deeds, Swain County, North Carolina.

Section 7. "Member" shall mean and refer to those persons entitled to membership as provided in the Declaration.

Section 8. "Common Expense" shall mean and include:

- (a) All sums lawfully assessed by the Association against its members;
- (b) Expenses of the easements and subdivision signage areas, including but not limited to administration, maintenance, repair, or replacement of the road right of way easements, utility easements, bridges, drainage structures, and subdivision signage areas and any and all other expenses set out and defined in the Declaration of Planned Community, Covenants, Restrictions and Easements on for The Settlement at Thomas Divide Subdivision as recorded at the Swain County, North Carolina Public Registry and any amendments thereto;
- (c) Expenses declared to be common expenses by the provisions of the Declaration or the By-Laws;
- (d) Expenses agreed by the members to be common expenses of the Association.

ARTICLE III MEETING OF MEMBERS

Section 1. Annual Meetings. The first annual meeting of the members shall be held within one (1) year from the date of incorporation of the Association, and each subsequent regular annual meeting of the members shall be held on the same day of the same month of each year hereafter, at a date, time, and location as designated by written notice. If the day for the annual meeting of the members is a legal holiday, the meeting will be held on the first day following which is not a legal holiday.

Section 2. Special Meetings. Special meetings of the members may be called at any time by the President or a majority of the Board of Directors, or lot owners having ten percent (10%) of the votes of the association.

Section 3. Notice of Meetings. Not less than 10 nor more than 60 days in advance of any meeting of the members of the association, the secretary of the association or other officer specified herein shall cause notice to be hand-delivered or sent prepaid by United States mail to the mailing address of each lot or to any other mailing address designated in writing by the lot owner, or sent by electronic means, including by electronic mail over the Internet, to an electronic mailing address designated in writing by the lot owner. The notice of any meeting shall state the time and place of the meeting and the items on the

agenda, including the general nature of any proposed amendment to the declaration or by-laws, any budget changes, and any proposal to remove a director or officer.

Section 4. Quorum. Unless otherwise specified in the Declaration, Articles of Incorporation or By-Laws, the presence at the meeting of members entitled to cast, or of proxies entitled to cast, one-twentieth (1/20) of the votes of each class of membership shall constitute a quorum for any action except as otherwise provided in the Articles of Incorporation, the Declaration, or these By-Laws. If, however, such quorum shall not be present or represented at any meeting, the members entitled to vote thereat shall have power to adjourn the meeting from time to time, without notice other than announcement at the meeting, until a quorum as aforesaid shall be present or be represented.

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. Every proxy shall be revocable and shall automatically cease upon conveyance by the member of his Lot.

ARTICLE IV

BOARD OF DIRECTORS: SELECTION: TERM OF OFFICE

Section 1. Number and Appointment. The affairs of this Association shall be managed by a Board of at least three (3) directors each holding a term of two (2) years, the appointment and removal of which Directors are made pursuant to Article IV of the Declaration of Planned Community, Covenants, Restrictions and Easements of The Settlement at Thomas Divide Subdivision and any amendments thereto on record at the Swain County Public Registry.

Not later than the termination of the Declarant control period and thereby the expiration of the period of Declarant's right to appoint and remove Directors of the Association pursuant to the provisions of this Section and the Declaration, the lot owners, including Declarant if Declarant then owns one or more Lots or parcels of land not otherwise separated into lots; shall elect a Board of Directors of at least three members for two (2) year terms, with at least a majority of such Board Members being lot owners. The Board of Directors shall elect the officers and both the new Board Members and the Officers shall take office immediately upon election.

Thereafter, the Association shall publish to the lot owners the names and addresses of all officers and Board Members of the Association within 30 days of their election.

Section 2. Removal. Any director may be removed from the Board, with or without cause, by the Declarant during any period in which Declarant has the right to appoint and remove officers and directors of the Association as set out in Article IV of the Declaration and any amendments thereto on record at the Swain County Public Registry. In the event of death, resignation or removal of a director, his or her successor shall be selected by the Declarant during any period in which Declarant has the right to appoint and remove officers and directors of the Association as set out in Article IV of the Declaration and any amendments thereto on record at the Swain County Public Registry.

However, after the Declarant time for appointment and removal has expired as set out in Article IV of the Declaration and any amendments thereto, the Board of Directors may unilaterally fill vacancies in its membership for the unexpired portion of any term. Thereafter, the lot owners, by a majority vote of all persons present and entitled to vote at any meeting of the lot owners at which a quorum is present, may remove any Board of Directors member with or without cause, other than a member appointed by the Declarant.

Section 3. Compensation. No director shall receive compensation for 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.

Section 4. Action Taken Without a Meeting. The directors shall have the right to take any action in the absence of a meeting which they could take at a meeting by obtaining the written approval of all the directors. Any action so approved shall have the same effect as though taken at a meeting of the directors.

ARTICLE V SELECTION OF OFFICERS

Section 1. Selection. Declarant hereby retains the right to appoint and remove at any time and from time to time any or all officers of the Association, with or without cause, until the conveyance of at least seventy five percent (75%) of lots within The Settlement at Thomas Divide and any real estate made a part of and added to The Settlement at Thomas Divide Subdivision.

Upon the expiration of the period of Declarant's right to appoint and remove officers of the Association pursuant to the provisions of this Article, such right shall automatically pass to the Board of Directors elected by the lot owners, including Declarant if Declarant then owns one or more Lots or parcels of land not otherwise separated into lots; and a special meeting of the Association shall be called at such time. At such special meeting the Board Members shall elect new officers which shall undertake the responsibilities of the Officers of the Association as set out herein.

ARTICLE VI MEETINGS OF DIRECTORS

Section 1. Regular Meetings. Regular Meetings of the Board of Directors shall be held at least every six (6) months without notice, at such place and hour as may be fixed from time to time by resolution of the Board. Should said meeting fall upon a legal holiday, then that meeting may be held at the same time on the next day which is not a legal holiday.

At regular intervals, the Board of Directors shall provide lot owners an opportunity to attend a portion of the Board of Directors meeting and to speak to the Board of

Directors about their issues or concerns. The Board of Directors may place reasonable restrictions on the number of persons who speak on each side of an issue and may place reasonable time restrictions on persons who speak.

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 and may be attended in person or via conference call.

Section 3. Quorum. A majority of the number of directors shall constitute a quorum for the transaction of business. Every act or decision done or made by a majority of the directors present at a duly held meeting at which a quorum is present shall be regarded as the act of the Board.

ARTICLE VII POWERS AND DUTIES OF THE BOARD OF DIRECTORS

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

- (a) adopt, amend and publish rules and regulations governing the use of the Common Property and facilities, if any, and the personal conduct of the members and their guests thereon, and to establish penalties for the infraction thereof;
- (b) exercise for the Association all powers, duties and authority vested in or delegated to this Association and not reserved to the Declarant and/or members by other provisions of these By-Laws, the Articles of Incorporation, or the Declaration;
- (c) exercise and perform the powers as set out in the North Carolina Planned Community Act.

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 comply with the obligations and standards established for non-profit corporations and Boards under the North Carolina Planned Community Act;
- (b) supervise all officers, agents and employees of this Association, and to see that their duties are properly performed;
- (c) perform all duties as more fully provided in the Declaration, to:
 - (1) compute a budget and notify lot owners as set out in the Declaration;

(2) file liens against any property for which assessments are not paid within thirty (30) days after due date and bring foreclosure action as allowed by law and the Declaration or to bring an action at law against the owner personally obligated to pay the same.

(3) issue, or to cause an appropriate officer to issue, upon demand by any person, a certificate setting forth whether or not any assessment has been paid. A reasonable charge may be made by the Board for the issuance of these certificates. If a certificate states an assessment has been paid, such certificate shall be conclusive evidence of such payment;

(4) cause all officers or employees having fiscal responsibilities to be bonded, as it may deem appropriate;

(5) cause the subdivision roadways, easements, walking trails, horse riding trails, signage areas, and any and all other common areas to be maintained.

(7) to follow and fulfill all requirements of the Board as set out in the Declaration on record and these By-Laws.

ARTICLE VIII OFFICERS AND THEIR DUTIES

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

Section 2. Selection of Officers. The appointment of the initial officers by Declarant shall take place at the first meeting of the Board of Directors as set out in Article IV of the Declaration and any amendments thereto on record at the Swain County Public Registry and any subsequent vacancies of an office shall be filled pursuant to the Declaration referenced herein.

Section 3. Term. The officers of this Association shall be serve for one (1) years terms but may be appointed by Declarant or the Board of Directors, after the Declarant's control period has ended, for successive terms.

Section 4. Multiple Offices. No person shall simultaneously hold more than one (1) of any of the other offices except the offices of Secretary and Treasurer may be held by the same person.

Section 5. Duties. The duties of the officers are as follows:

President

(a) The President shall preside at all meetings of the Board of Directors; shall see that orders and resolutions of the Board are carried out; shall sign all leases, mortgages, deeds and other written instruments and shall co-sign all checks over Two Thousand Five Hundred Dollars (\$2,500.00) and promissory notes.

Vice-President

(b) The Vice-President shall act in the place and stead 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.

Secretary

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

Treasurer

(d) The Treasurer shall receive and deposit in appropriate bank accounts all monies of the Association and shall disburse the funds as directed by resolution of the Board of Directors; shall sign all checks and promissory notes of the Association; keep proper books of account; and shall prepare an annual budget at the direction of the Board and as approved by the Board and a statement of income and expenditures to be presented to the membership at its regular annual meeting, and deliver a copy of each to the members. The Treasurer shall issue certificates indicating the payment or nonpayment of assessments on specified lots.

**ARTICLE IX
ASSESSMENTS**

As more fully provided in the Declaration, each member is obligated to pay to the Association annual and special assessments, which are secured by a continuing lien upon the property on which the assessment is made. Any assessments that are not paid when due shall be delinquent. If the assessment is not paid within thirty (30) days after the due date, the assessment shall bear interest from the date of delinquency at the rate of the lower of the highest legal rate of interest which can be charged or the rate of eighteen percent (18%) per annum, and the Association may bring an action at law against the Owner personally obligated to pay the same or foreclose the lien against the property in the same manner that Deeds of Trust may be foreclosed under Power of Sale under Chapter 45 of the North

Carolina General Statutes, or its successors; and interest, costs, late fees as set by the Association and reasonable attorney's fees of any such action shall be added to the amount of such assessment. No Owner may waive or otherwise escape liability for the assessments provided for herein by nonuse of the subdivision roadways, bridges or abandonment of his or her Lot.

ARTICLE X CORPORATE SEAL

The Association shall have a seal in circular form having within its circumference the words: THE SETTLEMENT AT THOMAS DIVIDE PROPERTY OWNERS' ASSOCIATION, INC.

ARTICLE XI AMENDMENTS

Section 1. These By-Laws may be amended, at a regular or special meeting of the Board of Directors by a vote of a majority of a quorum of Board of Directors present in person or by proxy. Further, these By-Laws may be amended by affirmative vote of, or written agreement signed by Lot Owners of Lots to which at least Sixty Seven Percent (67%) of the votes in the Association are allocated.

No amendment hereto shall be contradictory to the Declaration in which case, the provisions set out therein shall control and take precedence over the provisions herein.

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

ARTICLE XII MISCELLANEOUS

The fiscal year of the Association shall begin on the first day of January and end on the 31st day of December of every year, except that the first fiscal year shall begin on the date of incorporation and end on the 31st day of December of the year of incorporation.

CERTIFICATION

I, the undersigned, do hereby certify:

That I am the duly elected and acting secretary of the THE SETTLEMENT AT THOMAS DIVIDE PROPERTY OWNERS' ASSOCIATION, INC., a non-profit, North Carolina Corporation, and,

That the foregoing By-Laws constitute the original By-Laws of said Association, as duly adopted at a meeting of the Board of Directors thereof, held on the 22nd day of

February, 2008.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed the seal of
said Association this 27th day of February, 2008.

By J. J. [Signature] (Secretary)