

# HE SWANSBORO AREA DEVELOPMENT FOUNDATION, INC.

## BYLAWS

### **Article I. Name and Purposes**

#### *Section 1.1. Name and Purposes.*

The name and purposes of the corporation shall be set forth in the Articles of Organization as in effect from time to time. These By-laws, and the powers of the corporation and its directors and officers, shall be subject to the Articles of Organization as in effect from time to time.

#### *Section 1.2. Location.*

The principal office of the corporation in the State of North Carolina shall be located initially at the place set forth in the Articles of Organization.

#### *Section 1.3. Members.*

The corporation shall not have any voting members. Any action or vote permitted to be taken by members pursuant to North Carolina laws shall be taken by action or vote of the directors of the corporation.

#### *Section 1.4. Fiscal Year.*

The fiscal year of the corporation shall end on December 30<sup>th</sup> each year.

#### *Section 1.5. Gender.*

Where the word "he" or "his" appears it shall be construed to have its generic meaning and shall apply equally to men and women.

### **Article II. Board of Directors**

#### *Section 2.1. Powers.*

The corporation shall have on governing body which shall be called the Board of Directors. The Board of Directors shall have and may exercise all of the powers of the corporation, including but not limited to all of the powers generally exercised by the board of directors in North Carolina.

#### *Section 2.2. Sponsors, Benefactors, and Non-voting Directors*

The Directors may designate persons or groups of persons as non-voting directors, sponsors, benefactors, contributors, friends or such other other title as they deem appropriate. Such

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persons shall serve in an honorary capacity and, except as the Directors shall otherwise designate, shall in such capacity have no right to notice of or to vote at any meeting, shall not be considered for purposes of establishing a quorum, and shall have no rights or other responsibilities.

#### **Section 2.3. Tenure**

Each Director shall hold office, subject to law, the Articles of Organization, and these By-laws, from the time of his election and qualification until the expiration of the term for which he was elected, or until such Director shall die, resign, or be removed from office as provided herein.

#### *Section 2.4. Removal of Directors*

Any Director may be removed with or without cause upon a majority vote of the Board. In the event that an ex officio Member, representing a municipality is removed by vote as provided herein, he shall be replaced by an ex officio appointment made by the municipality.

#### *Section 2..4. Resignation.*

Any Director may resign by delivering his written resignation to an officer of, or to, the corporation at its principal office. Such resignation shall be effective upon receipt (unless specified to be effective at some other time), and acceptance thereof shall not be necessary to make it effective unless it so states.

#### *Section 2.5. Vacancies.*

Elections for additional Directors or to fill vacancies occurring among the officers or Directors may be held at the annual meeting of the Board or at a special meeting of the Board. A Director elected to fill the unexpired term of a Director shall be elected for the unexpired term of his predecessor in office and shall serve until the term of the vacant seat expires. If the term of a Director who has been nominated for re-election shall expire before the election takes place, the Director shall continue to serve until the vote on re-election is taken. The continuation of a vacancy in any position shall not be deemed to be default by these By-Laws.

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### **Article III. Meetings of the Corporation.**

#### *Section 3.1. Meetings.*

The annual meeting shall be called, and special meetings of the Board of Directors may at any time be called, by the President, the Secretary and Clerk, the Treasurer of the corporation, or by vote of the executive committee; and a special meeting shall be called by the Secretary and Clerk, or by any other officer, upon written application of Directors representing at least twenty-five (25%) of the smallest quorum of Directors required for a vote upon any matter at the annual meeting of the Directors, stating the time, place and purposes of the meeting. Meetings may be held at any location within the state of North Carolina.

#### *Section 3.2. Quorum.*

One third of the Directors shall be required to constitute a quorum for transaction of business at all meetings of the Board of Directors. A number less than a quorum may adjourn the meeting from time to time and the meeting may be held as adjourned without further notice.

#### *Section 3.3. Notice of Meetings.*

A notice of each meeting, stating the time and place thereof and the purposes for which the meeting is being called, shall be mailed, faxed or electronically mailed by the Secretary at least five days before the meeting, addressed to each Director at such address as such Director shall have furnished the Secretary or be delivered to such a Director personally.

#### *Section 3.4. Waiver of Notice.*

Notice of any meeting may be waived if each Director provides a written statement waiving such notice; all waivers shall be filed with the records of the meeting. Any meeting at which all the Directors are present or if each Director not present has either given notice as provided herein or has waived notice in writing, shall be a legal meeting for transaction of all business, notwithstanding that notice has not been given as herein provided.

#### *Section 3.5. Manner of Acting.*

The act of a majority of the Board present at a meeting at which a quorum is present shall be an act of the Board unless a greater number is required by these By-laws or by law.

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#### *Section 3.6. Informal Action; Telephone Conference Meetings.*

Any action that may be taken at a meeting of the Board or of any committee of the Board may be taken without a meeting in a consent in writing, setting forth the action so taken, signed by all of the Directors or committee members entitled to vote on the subject thereof. Such consent shall have the same force and effect as a unanimous vote of the Board and shall be recorded in the minutes of the corporation. Directors or members of any committee designated by the Board may participate in a meeting of the Board or committee by means of a conference telephone or similar communications equipment by means of which all persons participating in the meeting can hear each other at the same time, and participation by such means shall constitute presence in person at a meeting.

#### **Article IV. Officers and Agents.**

##### *Section 4.1. Officers.*

The initial officers of the corporation shall be the President, the Vice President, the Treasurer, and the Secretary. The Board may also elect such other officers or agents as the Directors may determine, and may assign such duties to these officers or agents as the Directors shall prescribe. The President, Vice President, and the Secretary shall be residents of North Carolina. The above officers shall be elected by the corporation at the annual meeting and, subject to law and to other provisions of these By-laws, all officers shall hold office as set forth in the Articles of Organization. No Director shall serve more than two years in the position of either president or Vice President. So far as not prohibited by law, any two or more offices may be filled by the same person.

##### *Section 4.2. President.*

The President shall preside over meetings of the Board, shall be ex officio a member of all committees, shall have such other powers and duties as may be determined by the Directors.

##### *Section 4.3. Vice President.*

The Vice President shall preside over meetings of the Board in the absence of the President, shall assist the President in the performance of his duties and responsibilities, and shall have such other powers and duties as may be determined by the Chair and/or the Board of Directors.

##### *Section 4.4. Treasurer.*

The Treasurer shall be the chief financial officer and the chief accounting officer of the corporation. He shall be in charge of its financial affairs, books of account, accounting records

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and procedures, funds, securities, and valuable papers, and he shall keep full and accurate records thereof. He shall also prepare or oversee all reports and filings required by the State of North Carolina, the Internal Revenue Service, and other governmental agencies. He shall have other such duties and powers as designated by the Directors,

#### *Section 4.5. Secretary.*

The Secretary shall be the secretary of the Board of Directors and of the executive committee, and shall preserve in books of the corporation true minutes of the proceedings of all meetings of the Board of Directors and of the executive committee. He shall perform all the duties ordinarily incident to the office of secretary or clerk of similar corporations and shall perform all the duties ordinarily incident to the office of secretary or clerk of similar corporations and shall perform such other duties and have such other powers as the Board of Directors or executive committee may from time to time designate. In his absence, the assistant secretary, if any, shall perform his duties. In the absence of both the Secretary and the assistant secretary from any meeting, the presiding officer may appoint a temporary secretary.

#### *Section 4.6. Delegation of Duties.*

To the extent permitted by the law, the Board may delegate for any reason, the powers or duties of any officer to any other officer or Director.

#### *Section 4.7. Removal of Officers.*

The Directors may at any time remove any officer without cause.

### **Article V. Committees.**

#### *Section 5.1. Board of Committees.*

The Board may establish committees (including, but not limited to, an executive committee, an audit committee, a development committee and a nominating committee) and may delegate to any such committees any of their powers, to the extent permitted by North Carolina law, provided that any committee to which the powers of the Directors are delegated shall consist solely of Directors as voting members of the committee. Except as otherwise provided in these Bylaws, and unless the Directors otherwise designate, committees shall conduct their affairs in the same manner as is provided in these By-laws for the Directors. The members of any committee elected by the Board of Directors shall remain in office at the pleasure of the Board.

#### *Section 5.2. Committee Meetings.*

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Meetings of the committees may be held at any time and place when called by the Chair of the Board, the committee chair, or any other two members of the committee. Unless the Board directs otherwise, committees shall conduct their affairs in the same manner as is provided in these By-laws for the Directors.

#### *Section 5.3. Executive Committee.*

The executive committee shall be the administrative body of the corporation. The executive committee shall consist of the officers of the corporation and such directors or ex-officio members as may be appointed by the Board of Directors. The Board of Directors may, at a meeting called for the purpose, at any time elect additional members or remove members, of the executive committee who are no ex officio members thereof. The executive committee can act in between meetings of the corporation Board.

#### *Section 5.3.1. General Duties.*

Unless the Directors otherwise determine, the executive committee shall have the power to act for the full board of Directors on all matters between meetings of the Directors to the extent permitted by North Carolina law. The President shall preside over the meetings of the executive committee. The Executive committee shall make a full report of its activities to the Board of Directors no less than annually.

#### *Section 5.3.2. Meetings*

Regular meetings of the executive committee may be held without call or formal notice immediately before each meeting of the Board of Directors or the corporation and at such other times and places as the executive committee may from time to time determine.

#### *Section 5.3.3. Appointment of Executive Director.*

The executive committee may appoint an Executive Director upon recommendation of the President of the Corporation. The Executive Director shall have general supervision and control over the business of the corporation, except as otherwise provided by law, these By-laws or by the Directors, and shall have and perform such other powers and duties as may be prescribed by the executive committee. The Executive Director shall hold office at the will of the Directors.

### **Article VI. Execution of Instruments.**

Except as the Board of Directors may generally or in particular cases authorize, all documents relating to any trust or gift, an all deeds leases, contracts, notes, transfers or assignments of securities, or otherwise, and other obligations of the corporation, shall be signed by the President of the corporation, and checks drawn on any bank account of the corporation shall be signed by the Treasurer, and if in excess of \$1,000.00 countersigned by the President.

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#### **Article VII. Compensation**

##### *Section 7.1. No Compensation for Directors.*

The Directors of the Corporation shall serve without compensation.

##### *Section 7.2. Compensation for Corporation Employees*

The executive committee upon the recommendation of the Executive Director (except as to the Executive Director's own salary) and upon approval by the Board, shall set the rate of compensation for any employees of the corporation to be paid out of the funds of the corporation as they shall determine from time to time to be commensurate with the services performed by such employee.

The Board of Director shall review and approve the compensation of all compensated employees of the company and ensure that compensated employees are familiar with IRS and North Carolina requirements relating to conflicts of interest.

A conflict of interest policy as required by the IRS will be adopted and periodically reviewed by the Board of Directors.

A non-discriminatory policy as required by the IRS will be adopted and periodically reviewed by the Board of Directors.

#### **Article VIII. Gifts.**

##### *Section 8.1. Gifts Accepted.*

All gifts made to and accepted by the corporation shall be made and accepted for the purposes of the corporation, and be subject to administration pursuant to these By-laws as from time to time lawfully amended, but the corporation may decline to accept any particular gift as the Board of Directors may deem advisable.

##### *Section 8.2. Restricted Gifts.*

Gifts may be accepted on terms and conditions imposed by the donors limiting the use thereof to a specific objective or objectives within the general purposes of the corporation, or limiting the use of the income or the principal thereof, all such gifts being hereinafter referred to as "restricted gifts." All gifts accepted without any such special limitations are hereinafter referred to as "unrestricted gifts."

By accepting a restricted gift, the corporation undertakes to use and administer it pursuant to its specific terms and conditions; provided that, if in the judgment of the Board of Directors the objective or objectives specified for such gift shall have ceased to be materially beneficial to or

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in the best interest of the purposes of the Corporation, or to be impossible or impracticable of accomplishment, the Board of directors may, subject to the terms of the gift (if applicable) and the receipt of any judicial approval required by law, apply such gift for other objectives as close as possible to the donor's original intent within the general purposes of the corporation.

All gifts to be used for the conduct of activities of the Swansboro Soccer Association, Inc.'s Hammock's Beach Soccer Complex, or for providing building, equipment or other facilities, at same shall be approved for acceptance by the Swansboro Soccer Association, Inc. In soliciting gifts on behalf of the Swansboro Soccer Association, Inc., the corporation shall, at the time of the solicitation, clearly and conspicuously disclose to the potential donor that the donations are to be provided to the corporation and not to the Swansboro Soccer Association, Inc. and that the donor may request in writing that the donor's identity not be publicly disclosed.

#### *Section 8.3. Unrestricted Gifts*

Gifts accepted as unrestricted gifts may be used in furtherance of the purposes of the corporation for any legal purposes within the discretion of the Board of Directors.

#### **Article IX. Conflicts of Interest.**

No person shall be disqualified from serving as a Director or Officer by reason of any personal interest. In the absence of fraud, any director or officer of this corporation, or any concern in which any such director or officer has any interest, may be a party to, or may be pecuniarily otherwise interested in, any contract, act or other transaction (collectively called a "transaction") of this corporation, and (1) such transaction shall not be in any way invalidated or otherwise affected by that fact; and (2) no director or officer or concern shall be liable to account to this corporation for any profit or benefit realized through any such transaction; provided, however, that such transaction either was fair at the time it was entered into or is authorized or ratified by a majority of the directors who are not interested and to whom the nature of such interest has been disclosed. No interested director of this corporation may vote or may be counted in determining the existence of a quorum at any meeting at which such transaction shall be authorized, but may participate in discussion thereof.

For purposes of this Article, "interest", shall include personal interest and also interest as a trustee, officer, stockholder, shareholder, director, member or beneficiary of any concern; and the term "concern" shall mean any corporation, association, trust, partnership, firm, person, or other entity other than this corporation.

#### **Article X. Audits and Reports**

The books of the corporation shall be audited annually by an independent public accountant or organization of public accountants. A copy of each audit report shall be provided to the

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President of the Swansboro Area Chamber of Commerce, each of the municipalities and government entities served by the corporation, and any other entity served by the corporation.

#### **Article XI. Amendments**

The Board of Directors shall have full power and authority to alter, amend or repeal any and all By-laws of the corporation by vote of the Directors. The notice of any meeting of the Board of Director called for such purpose shall specify the subject matter of purposed alteration, amendment or repeal, or the articles to be affected thereby.

#### **Article XII. Indemnification**

The corporation shall, to the extent legally permissible, indemnify each person who serves as one of its Directors or officers, or who serves at its request as a director or officer of another organization or in a capacity with respect to any employee benefit plan (each such person being herein called a "Person"), against all liabilities and expenses, including amounts paid in satisfaction of judgments, in compromise or as fines and penalties, and counsel fees reasonably incurred by such Person in connection with the defense or disposition of any action, suit or other proceeding, whether civil or criminal, in which such Person may be involved or with which such Person may be threatened, while in office or thereafter, by reason of being or having been such a Person, except with respect to any matter as to which such Person shall have been adjudicated in any proceeding not to have acted in good faith in the reasonable belief that his action was in the best interests of the corporation or, to the extent such matter relates to service at the request of the corporation for another organization or an employee benefit plan, in the best interests of such other organization or in the best interests of the participants or beneficiaries of such employee benefit plan. Such best interests shall be deemed to be the best interest of the corporation for the purposes of this Article.

Notwithstanding the foregoing, as to any matter disposed of by any Person without adjudication, including by a compromise payment pursuant to a consent decree or otherwise, no indemnification either for said payment or for any other expenses shall be provided unless such compromise shall be approved as in the best interests of the corporation, after it involves such indemnification, (a) by a disinterested majority of the Directors then in office; or (b) by a majority of the disinterested Directors then in office, provided that there has been obtained an opinion in writing of independent legal counsel to the effect that such Person appears to have acted in good faith in the reasonable belief that his or her action was in the best interests of the corporation. Expenses, including counsel fees, reasonably incurred by any Person in connection with the defense or disposition of any such action, suit or other proceeding may be paid from time to time by the corporation in advance of the final disposition thereof upon receipt of an undertaking by such Person to repay the amounts so paid if such Person ultimately shall be adjudicated to be not entitled to indemnification under this Article. Such an undertaking may be accepted without reference to the financial ability of such Person to make repayment.

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The right of indemnification hereby provided shall not be exclusive. Nothing contained in this Article shall affect any other rights to indemnification to which any Person or other corporate personnel may be entitled by contract or otherwise under law.

As used in this Article, the term "Person" includes such Person's respective heirs, executors and administrators, and a "disinterested" Director or officer is one against whom in such capacity the proceedings in question, or another proceeding the same or similar grounds, is not then pending.

**Article XIII. Dissolution.**

In the event of the Dissolution of the Corporation, the directors will comply with the Corporate Articles of Organization, these by-laws and applicable North Carolina and Federal law.

Adopted by the Board of Directors of the Swansboro Area Chamber of Commerce, Inc., 2007

