

**AMENDED AND RESTATED ARTICLES OF INCORPORATION**  
**of the**  
**Calmes Neck Property Owners Association, Inc.**  
**May 20, 2023**

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The undersigned, on behalf of the nonstock corporation set forth below, pursuant to the Virginia Nonstock Corporation Act (Nonstock Act), Title 13.1, Chapter 10 of the Code of Virginia, states that the Articles of Incorporation are amended and restated as follows:

**ARTICLE I: NAME**

The name of the corporation is Calmes Neck Property Owners Association, Inc., referred to herein as the CNPOA.

**ARTICLE II: DEFINITIONS**

The capitalized words or terms used in the Articles and Bylaws are defined in Appendix A.

**ARTICLE III: PURPOSE**

**Section 1.** To keep and maintain the Common Areas, Roads, Easements, and Depreciable Assets in good condition.

**Section 2.** To apply and enforce the Rules for Common Areas of the CNPOA (Rules).

**Section 3.** To protect and preserve the natural vegetation and wildlife.

**Section 4.** To maintain the peace and tranquility of the Common Areas and community.

**Section 5.** To exercise the powers and rights and to comply with the duties set forth in the Nonstock Act, Articles, and Bylaws.

**Section 6.** To apply and enforce the Governing Documents.

**Section 7.** To manage the CNPOA Business and Affairs.

**ARTICLE IV: MEMBERS AND MEMBERS' RIGHTS**

**Section 1.** Members. Members include those who by virtue of being Owners may be either automatic or voluntary Members. See Bylaw Appendix A for the lots eligible to be Members.

**Automatic:** Owners of a lot or lots with CNES Protective Covenants shall be automatic Members.

**Voluntary:** Owners of a lot or lots with CNE Independent Lots, B-vLF, BYS, and RGS Protective Covenants may become voluntary Members.

**Section 2.** Votes per Ownership Unit. Members in Good Standing shall be entitled to one (1) vote for each Ownership Unit.

**Section 3.** Rights of Members in Good Standing. Members in Good Standing shall have the following rights, subject to conditions set forth in the Articles and Bylaws:

- (a) The right to vote on Annual and Special Assessments, Annual Operating Budget, and other matters specified in the Articles and Bylaws.
- (b) The right to vote in Board elections.
- (c) The right to vote on the Rules.
- (d) The right to use the Recreation Area and Pool, subject to compliance with the Rules.
- (e) The right to serve on the Board and committees, and to be an officer.

**Section 4.** Additional right of Members in Good Standing. In addition to the rights listed above, Members in Good Standing shall have the following additional right:

- (a) Members. The right to vote on matters pertaining to the Protective Covenants and CNES Rules and Regulations, to the extent that such matters affect financing or maintenance costs, including Annual and Special Assessments and/or Annual Operating Budget.
- (b) Board. The right to vote on matters pertaining to the administration, enforcement, and/or modification of the Protective Covenants and the CNES Rules and Regulations that may come before the Board.

**Section 5.** Rights of non-Member Owners in Good Standing. Non-Member Owners in Good Standing who have an Easement to use the Common Areas, but who choose not to be Members, shall be entitled to use the Recreation Area and Pool.

#### **ARTICLE V: REGISTERED AGENT**

The name of the registered agent and the address of the registered office are on file with the Virginia State Corporation Commission.

#### **ARTICLE VI: BOARD**

**Section 1.** Board. The Business and Affairs of the CNPOA shall be managed by a five (5) member Board, who shall be Members in Good Standing and shall be elected by the Members. The duties of Board members shall be determined in accordance with the Bylaws.

**Section 2.** Election of Board Members. At the Annual Meeting (Spring Meeting) in each odd-numbered year, the Members shall elect an odd number of Board members, and in each even-numbered year, the Members shall elect an even number of Board members, each for a Term of two (2) years. A Term shall commence upon election and expire upon the election of the successor.

**Section 3.** Removal of Board Members. Members in Good Standing representing twenty percent (20%) of the Members' Ownership Units may present a written petition to the Board to remove Board members. The Board shall call a Special Meeting or include consideration of the petition in an Annual Meeting so the Members can vote whether to remove Board members. A majority vote of the Members in person or by proxy is required for removal. The notice of the Meeting shall state that the purpose, or one of the purposes, of the Meeting is the removal of Board members.

**Section 4.** Vacancy. If a vacancy occurs on the Board, the Board may appoint a Member in Good Standing to serve on the Board until a successor is elected at the next Annual Meeting at which Board members are elected.

**Section 5.** Action Without a Board Meeting. The Board may, through electronic communications, authorize action permitted or required under the Nonstock Act, without a Board Meeting, provided that a majority of Board members submit written or electronic consent to the action. The action shall be ratified at the next Board Meeting and recorded in the Meeting minutes. If a Board member objects to the action, the Board will not take the action without a Board Meeting.

## **ARTICLE VII: LIMITATIONS**

**Section 1.** No Return of Dividends or Net Profits. The CNPOA is a nonstock corporation and does not return dividends or net profits to its Members or to other private Persons. The CNPOA is authorized to pay reasonable compensation to employees, contractors, and/or vendors for services rendered and/or materials provided and to make payments and distributions in furtherance of the Purposes set forth in Article III.

**Section 2.** Board Members' Personal Assets. Board members' personal assets shall not be subject to the debts, obligations, or liabilities of the CNPOA.

**Section 3.** Elimination of Board Members' Liability. In an action brought by or in the right of the CNPOA, or brought by or on behalf of a Member, Members, or non-Members, arising out of a single transaction, occurrence or course of conduct, there shall be no damages assessed against an officer or Board member. This shall not apply to causes of action which may have existed on the date of its first adoption, June 24, 2017.

## **ARTICLE VIII: AMENDMENT**

The Articles may be amended by a two-thirds (2/3) vote of the Members voting in person or by proxy at an Annual Meeting where a Quorum is present, provided the text of the current Article and proposed amendment and/or the proposed new Article have been e-mailed to the Members at least twenty-five (25) days prior to the Annual Meeting. The date of the Annual Meeting shall not be counted in the calculation of the twenty-five (25) day notice period. The date of the notice shall be the record date for determining the Members entitled to vote.

## **ARTICLE IX: DISSOLUTION**

The duration of the CNPOA shall be perpetual, subject to termination only upon the written consent signed by two-thirds (2/3) of the Members in Good Standing. Written notice of a proposal to dissolve, setting forth the reasons therefore and the disposition to be made of the assets, shall be mailed to Members at least ninety (90) days prior to any action. The date of the action shall not be counted in the calculation of the ninety (90) day notice period. The date of the notice shall be the record date for determining the Members entitled to submit a written consent.

Upon the dissolution of the CNPOA, the Board shall, after paying or making provision for the payment of all liabilities of the CNPOA, dedicate, grant, convey, or assign the Common Areas and the Depreciable Assets, to an appropriate public agency, non-profit corporation, association, trust, or other entity organized for the purposes set forth in Article III.

## **ARTICLE X: SIGNATORIES**

The foregoing Articles were adopted by the CNPOA on May 15, 2010, and were amended on November 5, 2016, June 24, 2017, May 18, 2019, and December 10, 2022, and were amended and restated on May 20, 2023.

The Articles were proposed by the Board and submitted to the Members in conformity with the Nonstock Act. The Articles were approved by at least a two-thirds (2/3) vote of the Members in Good Standing represented in person or by proxy at an Annual Meeting held for that purpose on the date of adoption and at which a Quorum was present.

IN WITNESS WHEREOF, for the purpose of amending and restating the Articles, I, the undersigned President of the CNPOA, have executed these Articles this 20th day of May, 2023.



Karen L. Taylor, CNPOA President  
Corporate ID: 0417722-6

## APPENDIX A

### DEFINITIONS

These definitions shall apply to the Articles, Bylaws, and other applicable Governing Documents.

- (1) **Annual Assessment** shall mean the annual assessment approved by the Members at an Annual Meeting to cover each Owner's share of the Annual Operating Budget, including from the owner of the 280.66-acre MacDougall Tract across from BYS.
- (2) **Annual Meeting** shall mean an annual meeting of the Members held in accordance with Section 838 of the Nonstock Act and Bylaw V(1). The CNPOA may hold more than one (1) Annual Meeting in a calendar year. The Annual Meeting held in the Spring shall be referred to as the Spring Meeting, and the Annual Meeting held in the Fall shall be referred to as the Fall Meeting. If the Spring and Fall Meetings are combined, they shall be referred to as the Combined Spring and Fall Meeting.
- (3) **Annual Operating Budget** shall mean the annual operating budget approved by the Members at an Annual Meeting and used to maintain the Common Areas, Roads, Easements, and Depreciable Assets and to manage the CNPOA Business and Affairs in furtherance of the Purposes set forth in Article III.
- (4) **Articles** shall mean the CNPOA Articles of Incorporation.
- (5) **Board** shall mean the CNPOA Board, who are authorized pursuant to Section 853 of the Nonstock Act to manage the CNPOA Business and Affairs, pursuant to the good faith business judgment rule of Section 870 and the Articles and Bylaws.
- (6) **Board Meeting** shall mean a meeting of the Board conducted pursuant to Section 864 of the Nonstock Act and Bylaw V(3).
- (7) **Business and Affairs** shall mean the powers, duties, and governance exercised by the Board in furtherance of the Purposes set forth in Article III, including without limitation collecting funds and paying expenses.
- (8) **Bylaws** shall mean the Bylaws of the CNPOA.
- (9) **CNPOA** shall mean the nonstock corporation which was incorporated pursuant to the Nonstock Act on November 4, 1993.
- (10) **Calmes Neck** shall mean the lots with the following Protective Covenants: (a) CNE Independent Lots (CNE Independent Lots 40-43, 66, and 84), (b) Calmes Neck Estates Subdivision (CNES Lots A-C, 1-97 and Hickory Knob (*excluding* Lots 11-18, 40-43, 66, and 84)), (c) Burwell-van Lennep Foundation (B-vLF Lots 11-18), (d) Blue Yonder Subdivision (BYS Lots A-1-H), and (e) River Glen Subdivision (RGS Lots 1-5).
- (11) **Common Areas** shall mean the areas owned and/or maintained by the CNPOA. The Common Areas include the CNPOA Roads, Recreation Area, Pool, and Security Gate, all defined below.
- (12) **Depreciable Asset** shall mean those capital assets and components of the CNPOA for which estimated useful life, remaining useful life, and replacement cost can be evaluated, and includes the following asset categories: (a) Roads, including the subcategories: Kubota Tractor, Other Equipment, and Culverts and Signs; (b) Gate, including the subcategories: Gate and Other Equipment; (c) Pool, including subcategories: Pool, Other Equipment, and Maintenance Equipment; and (d) Recreation Area.

- (13) **Easements** shall refer to right of Owners to use the Recreation Area and Pool pursuant to easements granted on April 15, 1983, recorded at Deed Book 150/Page 4 (for CNE Independent Lots, B-vLF, RGS, and MacDougall Tract) (*Hereafter Deed Book shall be abbreviated as DB and Page as P, and all Deed Book references shall refer to documents recorded in the Office of the Clerk of the Circuit Court of Clarke County Virginia.*); on January 4, 1988, recorded at DB 188/P 368 (for BYS); and on April 6, 2006, recorded at DB 456/P 813 (for RGS). The Easements for the non-CNPOA Roads are more particularly described in the definition of Roads hereafter. The Easements for the CNPOA Roads are more particularly described in individual deeds. The Easements for the Security Gate are more particularly described in the definition of Security Gate hereafter.
- (14) **Emergency Meeting** shall mean a meeting of the Board or Members called pursuant to Section 824(D) of the Nonstock Act or Bylaw V(4) because of (a) national, statewide, or local emergency, which prohibits or restricts in-person meetings; (b) weather or other events which make in-person meetings or travel unsafe; or (c) an emergency which affects the safety, health, or general welfare of the CNPOA or its Members.
- (15) **Good Standing** shall mean an Owner (a) who is current on their obligation to pay an Annual Assessment to the CNPOA, (b) who complies with the applicable Governing Documents and ensures that their family members, Guests, pets, invitees, and Tenants also comply, and (c) who has not been prohibited by the Due Process Protocol from using the Recreation Area and Pool. Guests and Tenants are defined in the Rules.
- (16) **Governing Documents** shall include the following (a) applicable Protective Covenants, (b) Articles, (c) Bylaws, (d) Rules, (e) Due Process Protocol, (f) Short-term Rental Protocol, (g) Terms of Use for Website and Broadcast E-mail Lists, (h) Roads, Gate, and/or Pool plans, policies, and programs, (i) Plater Settlement Agreement, and (j) applicable CNES Rules and Regulations.
- (17) **Member** shall mean the Owner who, by virtue of a recorded deed (a) in CNES is an automatic Member, or (b) in CNE Independent Lots, B-vLF, BYS, and RGS becomes a voluntary Member.
- (18) **Meeting** shall mean any Annual (Spring or Fall), Board, Emergency, or Special Meeting of the Board or Members called pursuant to Bylaw V.
- (19) **Owner** shall mean a Person, who by virtue of a recorded deed in Calmes Neck, has an obligation to pay an Annual Assessment to the CNPOA and/or has Easements for the Roads and Recreation Area and an obligation to pay for the maintenance of the Easements.
- (20) **Ownership Unit** shall mean one (1) or more lots under common ownership, whose Owners are eligible to be Members. If an Owner owns (a) more than one (1) improved lot, regardless of Protective Covenants, then separate Ownership Units shall be deemed to exist for each improved lot, or (b) lots with different Protective Covenants and who pay an Annual Assessment for each lot owned, the Owner shall be deemed to have one (1) Ownership Unit for each Annual Assessment paid.
- (21) **Person** shall mean a natural person, corporation, partnership, trust, or other entity.
- (22) **Pool** shall mean the swimming pool, deck, fence, shed, well, and related equipment, which are part of the 9.993 acres deeded to the CNPOA by Richard C. Plater, Jr. on February 21, 1994, recorded at DB 242/P 14, and for which Owners have an Easement.
- (23) **Protective Covenants** shall mean the Calmes Neck deeds and covenants recorded as follows: DB 619/P 713 (CNES, including the CNES Rules and Regulations), DB 497/P 928 (BYS), DB 153/P 171 (B-vLF Lots 11-18), DB 456/P 813, and as disputed, DB 651/P 626 (RGS), and CNE Independent Lots, within the chain of title of each of CNE Independent Lots. May be referred to herein as Covenants.

- (24) **Quorum** shall mean, with respect to an Annual, Special, or Emergency Meeting, Members in Good Standing representing at least forty percent (40%) of Ownership Units, present in person or by proxy. With respect to a Board Meeting, a Quorum shall be a majority of the number of Board members provided for in Article VI(1). For purposes of the Articles and Bylaws, all Meetings, to be valid, must have a Quorum. Members present at a properly noticed Meeting at which a Quorum is present may conduct business until adjournment, notwithstanding the withdrawal of enough Members to leave less than a Quorum.
- (25) **Recreation Area** shall mean the 9.993 acres deeded to the CNPOA by Richard C. Plater, Jr. on February 21, 1994, recorded at DB 242/P 14, and for which Owners have Easements. As used herein, the Recreation Area includes the Pool.
- (26) **Roads** shall mean (a) the roads deeded to the CNPOA by Double E on December 30, 1994, recorded at DB 249/P 738, and over which the Owners have easements pursuant to individual deeds, including Calmes Neck Lane in CNES, Blue Bird Lane, Little River Lane, Cardinal Lane, Oak Cliff Lane, and Robin Lane; and (b) those roads not owned by the CNPOA, but over which the CNPOA and the Owners have easements to travel from Route 606 to CNES, including easements from (1) W.S.C. Burwell on July 11, 1960, recorded at DB 59/P 252 (Route 606 to the Gate, excluding that section of the road which encroaches on the Historic John Lloyd Tract)(easement to Double E only); (2) Justus M. Holme, Jr., as trustee for John B. Lacey on March 22, 1978, recorded at DB 128/P 600 (over that section of the road, between Route 606 and Pearl Lane, which encroaches on the Historic John Lloyd Tract); (3) the children and widow of W.S.C. Burwell on May 22, 1981, recorded at DB 145/P 653 (from Route 606 to Pearl Lane, excluding that section of the road which encroaches on the Historic John Lloyd Tract); (4) Kenneth and Barbara Herron and Joan Huff on October 9, 1981, recorded at DB 145/P 649 (from Pearl Lane to the Gate); (5) the then-owner of Hickory Knob on December 19, 1980, recorded at DB 140/P 590 (over Hickory Knob) and (6) Richard C. Plater, Jr. on April 18, 1983, recorded at DB 150/P 9, corrected on September 19, 1983, at DB 150/P 768, and B-vLF on March 15, 1988, recorded at DB 186/P 203 (over B-vLF road). Roads owned by the CNPOA may be referred to as CNPOA Roads. The Roads include those sections of Calmes Neck Lane which the CNPOA does not own, for which the Owners have an Easement, and the CNPOA has duty to maintain.
- (27) **Security Gate** shall mean the security gate, gate call box, gate operator, cameras, recording equipment, fence, and related gate equipment, owned by the CNPOA, and located at its current site pursuant to easements granted by the adjoining property owners on April 7, 2008, recorded at DB 495/P 837.
- (28) **Special Assessment** shall mean an assessment approved by the Members for the purposes, and by the procedures, set forth in Bylaw VIII(2).
- (29) **Special Meeting** shall mean a meeting of the Members called pursuant to Bylaw V(2).
- (30) **Term** shall mean the term of a Board member. A term shall commence upon election and expire at the end of the term or upon the election of a successor. A term shall be approximately two (2) years unless the Board member assumes a vacant Board seat, in which case it would be the remainder of the prior Board member's term.