

NORTH CAROLINA RAIL-TRAILS, INC.  
BY-LAWS—**Effective 1-1-2010**

ARTICLE I

PURPOSES OF THE CORPORATION

The corporation is a non-profit corporation organized exclusively for charitable and educational purposes within the meaning of Section 501 (c) (3) of the Internal Revenue Code of 1954. The corporation's purposes are to engage in any lawful act or activity for which corporations may be organized under Chapter 55A of the North Carolina General Statutes, and to carry on any activity and perform all acts which may be deemed necessary or expedient in the accomplishment of those purposes.

ARTICLE II

OFFICES

Section 1. Principal Office. The principal office of the corporation shall be located at PO Box 61348, Durham, North Carolina 27715-1348

Section 2. Registered Office. The registered office of the corporation, required by law to be maintained in the State of North Carolina, shall be located as the Board of Directors may from time to time determine, or as the affairs of the corporation may require.

ARTICLE III

MEMBERS AND SHAREHOLDERS

The corporation shall have members of a single class, whose membership shall be created and exist upon payment of dues and submission to the corporation an application for membership, at an address to be established by the Board of Directors, upon a form and containing such information as may be approved and established from time-to-time by the Board of Directors. The terms of each membership shall be annual unless the Board of Directors shall establish a different duration, and the dues required for membership shall be in such amounts as the Board of Directors may from time-to-time establish. Members shall not be entitled to any interest in the assets of the corporation, and upon termination of membership or expulsion, or upon dissolution or liquidation of the corporation, shall not be entitled to any distributive or other share of the corporation's assets. The members shall have voting rights. Membership in NCRT shall be open to all individuals who, or entities that, met the criteria for membership established by the Board of Directors. These criteria shall depend solely on financial contributions and volunteer service to NCRT, and shall not discriminate on the basis of sex, race, ethnic origin, age, disability or sexual preference. The members shall meet at least annually, such meeting to coincide with the annual meeting of the Board of Directors unless the Board of Directors shall establish a different meeting date or place.

ARTICLE IV

DIRECTORS

Section 1. General Powers. The business and affairs of the corporation shall be managed by the Board of Directors or by such Executive Committee as the Board may establish pursuant to these By-Laws. The powers of the Board of Directors shall include hiring, firing and review of the President of the Corporation as authorized by the Board, with such actions requiring a simple majority of the Board's entire membership; and conducting a periodic evaluation of NCRT's performance in reaching its goals and objectives.

Section 2. Number, Term and Qualifications. The number of directors of the corporation shall not be less than five (5) nor more than fifteen (15) with staggered terms of three (3) years. The Board of Directors should strive to maintain a Board that includes representatives from across the State of North Carolina; a diversity in

age, gender, ethnic background and disability, and a range of experience and knowledge of issues related to land conservation and rail-trails. Normally, each director shall also serve on a Board committee or undertake a special project.

Section 3. Election. The Directors shall be elected by the board of directors at any regular or special called meeting of the board. Biographical description(s) of proposed new board members shall be sent to the board 30 days prior to the meeting of the board. The directors shall be divided into three (3) classes, as nearly equal in number as may be, to serve in the first instance the terms of one (1), two (2), and three (3) years, respectively, and until their successors shall be elected and shall qualify, and thereafter the successors in each class of directors shall be elected to serve for terms of three (3) years and until their successors shall be elected and shall qualify. In the event of any increase or decrease in the number of directors, the additional or eliminated directorships shall be so classified or chosen so that all classes of directors shall remain or become equal in number, as nearly as may be. In the event of the death, resignation, retirement, removal or disqualification of a director during his or her elected term of office, his or her successor shall be elected to serve only until the expiration of the term of his or her predecessor.

Section 4. Removal. Any director may be removed, with or without cause, upon recommendation by a majority of the Board of Directors by an affirmative vote of 2/3 of the remaining Board of Directors.

Section 5. Compensation. Members of the Board of Directors shall receive no compensation for their services and duties as directors. The word "compensation" as used in these By-Laws does not include reimbursement for out-of-pocket expenses incurred in connection with the business of the Corporation. A director or officer who serves the Corporation in any other capacity as director or officer (for example, under contract to the Corporation or as a staff member) may receive compensation and reimbursement of reasonable expenses for such other services pursuant to a resolution approved by a majority of the disinterested directors. Officers and members of the Board of Directors of the corporation may request reimbursement for out of pocket expenses incurred toward the direct program activities of the corporation as approved by the Board of Directors.

Section 6. Powers and Duties. The Board of Directors shall have the powers and duties necessary and appropriate for the administration of the affairs of the Corporation. All powers of the Corporation, except for those specifically granted or reserved to the members by law, by the Articles of Incorporation, or by these By-Laws, shall be vested in the Board of Directors. The Board shall have the power to purchase, lease, pledge, and sell the property of the Corporation, or hold easements or other interests in property owned by others, and to make such contracts or agreements on behalf of the Corporation, as the Board may deem appropriate for the Corporation to accomplish its purposes. The Board shall administer any donations and bequests received by the Corporation. The Board shall require adequate bonding of any officers, employees or agents of the Corporation, as the Board may deem necessary and appropriate. The Board may delegate any of its authority to officers, employees and agents of the Corporation provided that such delegation of authority does not relieve the Board of its overall responsibility for management of the affairs of the Corporation.

Section 7. Conflicts of Interest. Directors shall avoid conflicts of interest and the appearance of impropriety. When a director has a conflict of interest regarding a matter before the Board of Directors, the director shall disclose the conflict, refrain from participating in discussions, and should not vote on the matter.

Section 8. Insurance. NCRT may purchase and maintain insurance on behalf of any person who is or was a director, officer, or employee of NCRT, or is or was serving at the request of NCRT as a director, officer, employee, or agent of another organization, partnership, joint venture, trust or other enterprise against any liability asserted against him and incurred by him in any such capacity, or arising out of his/her status as such, whether or not NCRT would have the power to indemnify her/him against liability under other provisions of these By-Laws or of the Corporation's Articles of Incorporation.

Section 9. Standard of Care. A Director shall perform her/his duties in good faith in a manner such Director believes to be in the best interest of NCRT, and with such care, including that of reasonable inquiry into matters affecting NCRT, as an ordinary, prudent person in a like situation would use in similar circumstances.

Section 10. Directors to be Members of Corporation. Each member of the Board of Directors shall, by at least paying the annual membership fee to the corporation in a timely manner, remain a current member of NCRT,

## ARTICLE V

### MEETINGS OF DIRECTORS

Section 1. Annual Meeting. An annual meeting of the Board of Directors shall be held on or by the last day of every calendar year.

Section 2. Regular Meetings. The Board of Directors may provide, by resolution, the time and place for the holding of regular meetings.

Section 3. Special Meetings. Special meetings of the Board of Directors may be called by or at the request of the Chair of the Board, or upon the request of two or more Directors.

Section 4. Notice of Meetings. The Secretary or designated employee of the Corporation shall notify directors of any special meeting at least 1 day before the meeting, by written or telephone notice, unless greater notice is required by these By-Laws or by governing law or regulation. Regular meetings may be held without notice.

Section 5. Waiver of Notice. Any director may waive notice of any meeting. Attendance by a director at a meeting shall constitute a waiver of notice of such meeting except where a director attends a meeting for the express purpose of objecting to the transaction of any business because the meeting is not lawfully called or convened.

Section 6. Quorum. Except as otherwise provided in these By-Laws or by resolution of the Board, a simple majority of the sitting board shall constitute a quorum for the transaction of business at any meeting of the Board of Directors.

Section 7. Manner of Acting. Except as otherwise provided in these By-Laws the act of the majority of the directors present at a meeting at which a quorum is present shall be the act of the Board of Directors.

Section 8. Meetings of the Board By Electronic or Other Suitable Means. Meetings, including actions taken by a majority of the directors, may be held by mail, email, telephone, video or web connection, or other such communications technologies as may be developed in the future. The quorum for such meetings is a simple majority of the sitting Board. If conducted by voice, such meetings are allowable if all participants can hear all other participants, and be heard by all other participants.

Section 9. Participation in Meetings of the Board by Electronic Communication Device or Other Suitable Means. Directors joining meetings of the Board by telephone, video conferencing device or other suitable communications technology, shall be counted in the quorum present at that meeting, and may participate in motions and votes during the meeting. Such participants must be able to hear, and be heard, by all other participants.

Section 10. Rules of Order. Meetings of the Board of Directors shall be governed by Robert's Rules of Order.

## ARTICLE VI

### COMMITTEES

Section 1. Committees. The Board of Directors by resolution may designate various committees of the Board of Directors to undertake such actions as the Board of Directors may direct by resolution. At a minimum, those committees shall include an Executive Committee and a Nominating Committee. The Chair of the Board of Directors shall appoint committee chairs. The president or her/his designee shall maintain a current roster of members of all committees.

Section 2. Executive Committee. The Executive Committee, composed of the Chair, Vice Chair, President, Secretary, Treasurer and one at-large member of the Board of Directors, and chaired by the Chair of the Board of Directors, shall conduct the business of the corporation as need be between meetings of the Board,

but subject to the requirements for action by the full Board given below. It shall also be responsible for preparing personnel guidelines for the Corporation if and when it employs paid staff.

At each meeting of the Executive Committee, a majority of the members of the Executive Committee (but not fewer than four (4) members) shall be present in person to constitute a quorum for the transaction of business.

During the intervals between board meetings, the Executive Committee shall have the authority to supervise the ordinary day-to-day business affairs of NCRT, and to make decisions in emergency situations when official action is needed on short notice, and it is impossible or impractical to call a meeting of the full Board of Directors.

The Executive Committee, or a subcommittee thereof, shall annually review the President's performance and make recommendations regarding her/his salary and benefits, if any.

Any action approved by the Executive Committee in conformance with this Section shall be effective as an action of the Board of Directors, except that the Executive Committee shall not have the power to (i) accept or dispose of land or interest in land without authorization for a specified project by majority vote of the Board of Directors; (ii) borrow money on the credit of NCRT, or to pledge the assets of NCRT for any purpose, in an aggregate outstanding amount greater than \$1,500; (iii) fill vacancies on the Board of Directors or the Executive Committee; (iv) remove an officer appointed by the Board; (v) establish new policy or initiate major new projects; (vi) appoint or terminate the president; or (vii) amend these bylaws.

Section 3. Nominating Committee. The Nominating Committee, composed of a Committee Chair selected by the Chair of the Corporation, shall meet at least once per year to prepare a slate of candidates for Board membership for consideration by the Board of Directors for election to the Board of Directors as outlined above. It shall also prepare a slate of officer candidates for presentation to the Board of Directors for election as officers as required when officers of the Board approach the end of their two-year terms. The President shall serve on this committee.

The Nominating Committee shall also be responsible for assisting board members in understanding and fulfilling their roles on the board.

## ARTICLE VII

### OFFICERS

Section 1. Officers of the Corporation. The officers of the corporation shall consist of a Chair, a Vice Chair, a President, a Secretary, a Treasurer, and such other officers as the Board of Directors may from time to time elect. Each officer must also be a director of the Corporation. Each officer shall serve until such officer's successor is duly elected and qualified, or until such officer's earlier resignation or removal from office. One person may not hold more than one office.

Section 2. Election and Term. All officers of NCRT shall be elected by a simple majority vote of the Board of Directors' entire membership. All officers other than the President serve for terms of two years, or until their successors are elected and qualified. The President serves at the pleasure of the Board of Directors in accordance with these bylaws. Officers may serve more than one term as such.

Section 3. Removal. Any officer or agent elected or appointed by the Board of Directors may be removed by the Board whenever in its judgment the best interests of the corporation will be served thereby; but such removal shall be without prejudice to the contract rights, if any, of the person so removed.

Section 4. Absences or Vacancies. Except as otherwise provided herein, in case of a vacancy in any office or the absence of an officer or, for any reason, the inability of an officer to act, the Board of Directors may appoint a director to fill the vacancy for the remainder of the term or to perform the duties of such officer during the period of her or his absence or inability to act.

Section 5. Chair of the Board. There will be a Chair of the Board of Directors elected by the directors from their number at an annual meeting of the Board. The Chair shall preside at all meetings of the Board of Directors, setting the agenda for such meetings, and perform such other duties as may be directed by the

Board. The Chair shall serve a term of two years, and may serve more than one term as Chair. The Chair acts as the day-to-day supervisor of the President of the Corporation, who is employed by the Board of Directors to lead the Corporation, and who in turn is responsible for employment and evaluation of other employees of the Corporation, if any.

Section 6. Vice Chair of the Board. There will be a Vice Chair of the Board of Directors elected by the directors from their number at an annual meeting of the Board. The Vice Chair shall work with the Chair in the exercise of the powers and duties of the Chair. In the absence of the Chair, the Vice Chair of the Corporation may act as Chair. The Vice Chair shall serve a term of two years, and may serve more than one term as Vice Chair. Unless unable or unwilling to serve, the Vice Chair will succeed the Chair.

Section 7. President. The President shall be the chief executive officer of the corporation and, subject to the control of the Board of Directors, shall supervise and control all of the business and affairs of the corporation, including its management and staffing, and carrying out its budget as approved, on an annual basis, by the Board of Directors. The President shall have the general powers and duties usually vested in the office of president of a corporation. The President, as the chief executive officer of the Corporation, may receive compensation from the Corporation for such service. The President is a member, with voting power, of all Board committees. The President serves as a member, with voting power, of the Board of Directors, and as President of the Board of Directors as long as he or she is employed by the Board of Directors as the chief executive officer of the Corporation. The President is elected by the Board of Directors.

Section 8. Secretary. The Secretary shall (a) keep the minutes of the meetings of the Board of Directors and of all Executive Committee meetings in one or more books provided for that purpose; (b) see that all notices are duly given in accordance with the provisions of the By-Laws or as required by law; (c) be custodian of the corporate records and of the seal of the corporation and see the seal of the corporation is affixed to all documents the execution of which on behalf of the corporation under its seal is duly authorized; and (d) in general perform all duties incident to the office of Secretary and such other duties as from time to time may be assigned by the Chair or by the Board of Directors. The Secretary shall serve a term of two years, and may serve more than one term as such.

Section 9. Treasurer. The Treasurer shall: (a) have charge and custody of and be responsible for all funds and securities of the corporation; receive and give receipts for moneys due and payable to the corporation from any source whatsoever, and deposit all such moneys in the name of the corporation in such depositories as shall be selected in accordance with the provisions of Section 5 Article IX of these By-Laws; (b) prepare, or cause to be prepared, a true statement of the corporation's assets and liabilities as of the close of each fiscal year, all in reasonable detail, which statement shall be made and filed at the corporation's registered office or principal place of business in the State of North Carolina within four months after the end of such fiscal year and thereafter kept available for a period of at least ten years; (c) shall prepare, or cause to be prepared, the Corporation's Form 990 federal tax return before the relevant annual deadline; and (d) in general perform all of the duties incident to the office of Treasurer and such other duties as from time to time may be assigned by the Chair or by the Board of Directors, or by these By-Laws. The Treasurer shall serve a term of two years, and may serve more than one term as such. The Treasurer shall at all reasonable times, upon adequate notice beforehand, make books and accounts open to any director of the Corporation and shall be prepared to give, or designate an employee of the Corporation to give, to members of the Corporation, such financial reports as the Board of Directors may request, or as may be required by the North Carolina Nonprofit Corporation Act or other law.

Section 10. Limits on Authority. None of the officers, employees or agents of the Corporation shall act in matters relating to the acquisition of land or the acceptance or transfer of any interest in land, without the prior approval of the Board of Directors.

## ARTICLE VIII

### STAFF

Section 1. Employment. Staff related to NCRT are employed in accordance with the provision of these By-Laws and with the personnel policies established by the Board of Directors.

Section 2. Limitation of Function. No staff member (save the President and Chief Executive Officer) is eligible for membership on the Board of Directors, or for appointment to the voting membership of any committee except as provided for in these By-Laws.

## ARTICLE IX

### CONTRACTS, LOANS CHECKS AND DEPOSITS

Section 1. Contracts. The Board of Directors may authorize any officer or officers, agent or agents, to enter into any contract or execute and deliver any instruments in the name of and on behalf of the corporation, and such authority may be general or confined to specific instances.

Section 2. Loans. No loans shall be contracted on behalf of the corporation and no evidences of indebtedness shall be issued in its name unless authorized by a resolution of the Board of Directors. Such authority may be general or confined to specific instances.

Section 3. Checks and Drafts. All checks, drafts or other orders for the payment of money issued in the name of the corporation shall be signed by such officer or officers, agent or agents of the corporation and in such manner as shall from time to time be determined by resolution of the Board of Directors.

Section 4. Expenditures and Commitments in Excess of \$1,500. Expenditures or financial commitments in excess of \$1,500 are to be approved by a resolution of the Board of Directors.

Section 5. Deposits. All funds of the corporation not otherwise employed shall be deposited from time to time to the credit of the corporation in such depositories as the Board of Directors shall direct.

Section 6. Deeds, Mortgages, Transfers, Easements and Leases Relating to Real Estate. All instruments relating to real estate transactions are to be approved by a resolution of the Board of Directors.

## ARTICLE X

### FORBIDDEN ACTIVITIES

The corporation is organized as a non-profit corporation exclusively for charitable and educational purposes within the meaning of Section 501 (c) (3) of the Internal Revenue Code of 1954. No part of the net earnings of the corporation shall inure to the benefit of or be distributable to its officers, directors, or other private persons, except that the corporation shall be authorized and empowered to pay reasonable compensation for services rendered and to make payments and distributions in furtherance of its charitable purposes. Notwithstanding any other provisions of this Article X, the corporation shall not carry on any other activities not permitted to be carried on (a) by a corporation exempt from Federal Income Tax under Section 501 (c) (3) of the Internal Revenue Code of 1954 (or the corresponding provision of any future United States Internal Revenue Law) or (b) by a corporation the contributions to which are deductible under Section 170 (c) of the Internal Revenue Code of 1954 (or the corresponding provisions of any future United States Internal Revenue Law).

The corporation shall distribute its income for each taxable year at such time and in such manner as not to become subject to the tax on undistributed income imposed by Section 4942 of the Internal Revenue Code of 1954.

The corporation shall not engage in any act of selfdealing as defined in Section 4941(d) of the Internal Revenue Code of 1954, or corresponding provisions of any subsequent Federal tax laws.

The corporation shall not retain any excess business holding as defined in Section 4943 (c) of the Internal Revenue Code of 1954, or corresponding provision of any subsequent Federal tax laws.

The corporation shall not make any investments in such manner as to subject it to tax under Section 4944 of the Internal Revenue Code of 1954, or corresponding provisions of any subsequent Federal tax laws.

The corporation shall not make any taxable expenditures as defined in Section 4945 (d) of the Internal Revenue Code of 1954, or corresponding provisions of any subsequent Federal tax laws.

## ARTICLE XI

### INVESTMENTS

The corporation shall have the right to retain all or any part of any securities or property acquired by it in whatever manner, and to invest and reinvest any funds held by it, according to the judgement of the Board of Directors without being restricted to the class of investments which a director or trustee is or may hereafter be permitted by law to make or any similar restriction, provided, however, that no action shall be taken by or on behalf of the corporation if such action is a forbidden activity or would result in the denial of the tax exemption under Section 503 or Section 507 of the Internal Revenue Code and its Regulations as they now exist or as they may hereafter be amended.

## ARTICLE XII

### GENERAL PROVISIONS

Section 1. Seal. The corporate seal of the corporation shall consist of two concentric circles between which is the name of the corporation and in the center of which is inscribed SEAL; and such seal, as impressed on the margin hereof, is hereby adopted as the corporate seal of the corporation.

Section 2. Waiver of Notice. Whenever any notice is required to be given to any director by law or by the Charter or By-Laws of the corporation, a waiver thereof in writing signed by the persons entitled to such notice, whether before or after time states herein, shall be equivalent to the giving of such notice.

Section 3. Fiscal Year. The fiscal year of the corporation shall be fixed by the Board of Directors.

Section 4. Amendments. These By-Laws may be amended at a meeting of the Board of Directors by the affirmative vote of two-thirds (2/3) of the directors of the Corporation then in office provided that any amendment to these By-Laws shall not be in conflict with, or permit any acts that are contrary to, the conservation purposes for which the Corporation was formed as stated in its Articles of Incorporation. The Corporation shall provide at least five days' written notice to the directors of any meeting of the Board of Directors at which an amendment to these By-Laws is to be voted upon. The notice shall state that the purpose of the meeting is to consider a proposed amendment to the By-Laws and be accompanied by a copy or summary of the amendment or include a statement of the general nature of the amendment.

Section 5. Adoption and Term. These By-Laws, to supersede those first adopted November 28, 1990, shall become effective on January 1, 2010. They were adopted by the Board on July 11, 2009,