

# Hickory Cluster Association Articles of Incorporation

## 1. *Its name*

We hereby associate to form a non-stock corporation under the provisions of Chapter 2 of Title 13.1 of the Code of Virginia, and to that end set forth the following:

1. The name of the Corporation is to be HICKORY CLUSTER ASSOCIATION.

## 2. *Its purposes*

2. The purpose or purposes for which the Corporation is organized are:

(a) To take title to, hold, maintain, improve, and beautify, without profit to itself, for the use in common of all the members thereof, their families, guests, and invitees, such parking areas, streets, open spaces, paths, and other facilities, as from time to time may be conveyed to it pursuant to a Deed of Dedication made by Palindrome Corporation and recorded in the Clerk's Office of Fairfax County, Virginia, on March 25, 1964 in Deed Book 2431, page 319, to enforce the covenants, restrictions, reservations, servitudes, profits, licenses, conditions, agreements, easements, and liens provided in the Deed of Dedication to be enforced by the Corporation, and to assess, collect, and disburse the charges created under said Deed, all in the manner set forth in, and subject to the provisions of, the said Deed.

(b) To do any and all lawful things and acts that the Corporation may from time to time, in its discretion, deem to be for the benefit of the property shown within Hickory Cluster on the plat attached to the Deed of Dedication, or on any subsequent plat filed pursuant to Article III of the said Deed (hereinafter referred to as the "Property") and the owners and inhabitants thereof or advisable, proper, or convenient for the promotion of the peace, health, comfort, safety, or general welfare of the owners and inhabitants thereof.

## 3. *Non-profit, non-stock corporation*

3. Provisions for the regulation of the internal affairs of the Corporation are:

(a) The Corporation is not organized for pecuniary profit, nor shall it have any power to issue certificates of stock or pay dividends, and no part of the net earnings or assets of the Corporation shall be distributed, upon dissolution or otherwise, to any individual. The Corporation may pay compensation in reasonable amounts to its members, directors, or officers, for services, including pensions.

## • *Membership*

(b) The following shall be members of the Corporation:

(1) Palindrome Corporation, a New York corporation (which, together with any successor to all or substantially all its business of developing the community of Reston, is referred to herein as the "Developer of Reston"), and

(2) all persons owning of record any dwelling unit on the Property (except a person taking title as security for the payment of money or the performance of any obligation).

No person (other than the Developer of Reston) shall be a member of the Corporation after he ceases to be the owner of record of any dwelling unit on the Property.

The directors of the Corporation may, after affording the member an opportunity to be heard, suspend any person from membership in the Corporation during any period of time when there exists a violation of any of the provisions of the Deed of Dedication (including, but not limited to, the failure to make any payment to the Corporation

when due and payable under the terms of the Deed of Dedication) with respect to the dwelling unit he owns or when he is in violation of any rule or regulation adopted by the Corporation with respect to the Property.

Each member of the Corporation, by becoming such, agrees that he shall be personally responsible for the payment of the charges created under the Deed of Dedication with respect to the dwelling unit he owns and for compliance by himself, his family, guests, and invitees, with the provisions of the said Deed and the rules and regulations adopted by the Corporation with respect to the Property.

The Developer of Reston may assign its membership in the Corporation to any person, corporation, association, trust or other entity, and such assignee, and any future assignee of such membership, may make successive like assignments.

The qualifications set forth herein for membership in the Corporation shall be the only qualifications for such membership.

- *Voting powers vested in members*

(c) The members of the Corporation shall have the right to vote for the election and removal of directors and upon such other matters with respect to which a vote of members is required under the provisions of Chapter 2 of Title 13.1 of the Code of Virginia. Each member of the Corporation shall have one vote, except that:

- *Residence required for voting membership*

(1) Any person owning a multi-family dwelling and/or more than one dwelling unit shall have the number of votes equal to the number of dwelling units (including any contained in such a multi-family dwelling) owned.

(2) When any dwelling unit on the Property is owned of record in joint tenancy or tenancy-in-common, or in any manner of joint or common ownership, such owners shall collectively be entitled to only that number of votes to which one person would be entitled were he the owner of such dwelling unit. Such vote shall be exercised only by the unanimous consent of the owners of record of such dwelling unit who are entitled to vote with respect thereto.

(3) Only a member of the Corporation (other than the Developer of Reston and any assignee or subsequent assignee of its membership) residing in the dwelling unit with respect to which he is entitled to vote, shall have the right to vote.

- *Rules for meetings*

(d) The directors may make such regulations as they deem advisable for any meeting of members, in regard to proof of membership in the Corporation, evidence of the right to vote, the appointment and duties of inspectors of votes, and such other matters concerning the conduct of the meeting as they shall deem fit.

- *Outside contracts*

(e) The Corporation may contract with the Developer of Reston or with any other person for the performance, as its agent, of any of the powers, duties, or functions of the Corporation.

- *Indemnity for directors and officers*

(f) The Corporation may indemnify any director or officer, or former director or officer, or any person who may have served at its request as a director or officer of another corporation in which it owns shares of capital stock or which it is a creditor, and the personal representatives of any of the foregoing, against the reasonable expense, including attorneys' fees, judgments, fines, and amounts paid in settlement, whether or not with court approval, actually and necessarily

incurred by him in connection with the defense or settlement of any civil or criminal claim, action, suit or proceeding, including one to impose a fine or penalty, brought or threatened to be brought against him by reason of his, or his testator, or instate, being or having been such a director or officer, or in connection with an appeal therein, unless he, or his testator, or instate shall be finally adjudged, in such action, suit, or proceeding to be liable for gross negligence or willful misconduct in the performance of duty. No amount shall be paid in settlement without court approval, unless independent legal counsel shall advise the Corporation that, in the opinion of such counsel, the matters involved in such action, suit, or proceeding did not constitute gross negligence or willful misconduct in the performance of duty by such director or officer, or by his testator or instate. A conviction or judgment (whether based on a plea of *nolo contendere* or its equivalent or after trial) shall not of itself be deemed an adjudication that such director or officer or testator or instate has been grossly negligent or guilty of willful misconduct in the performance of his duties. An application for indemnification pursuant to this section shall be made to the Board of Directors of the Corporation. Upon receipt of any such application, the Board shall determine whether, under the circumstances of such claim, action, suit or proceeding, any indemnity payments should be made and the amount thereof, if any. Such determination shall be made by resolution adopted by a majority of a quorum of the Board of Directors without counting in such majority or quorum any interested director or, in the event that no quorum of disinterested directors is available, adopted by a majority of a group of three or more persons appointed by a majority of the disinterested members of the Board. Any determination under this section that a payment by way of indemnity should be made shall be binding upon the Corporation and its members.

#### **4. Board of Directors**

4. The management of the affairs of the Corporation shall be vested in the directors. The number of directors shall be five. Only members of the Corporation, their spouses, and designees of Palindrome Corporation shall be eligible to act as directors of the Corporation. The length of the initial term of each of the directors constituting the initial Board of Directors is set forth in paragraph 6 below. The first election of directors by the members of the Corporation shall be held at the annual meeting of the members in 1965. The directors elected by the members at the first election of directors and thereafter, shall be elected for a term of three years and until their respective successors are elected. Any vacancy occurring in the initial or any subsequent Board of Directors may be filled at any meeting of the Board of Directors by the affirmative vote of a majority of the remaining directors, though less than a quorum of the Board of Directors, or by a sole remaining director, and if not previously so filled, shall be filled at the next succeeding meeting of members of the Corporation. Any director elected to fill a vacancy shall serve as such until the expiration of the term of the director, the vacancy in whose position he was elected to fill.

#### **5. Initial registered office**

5. The post office address of the initial registered office of the Corporation is 106 North Payne Street. The name of the City or County in which the initial registered office is located is the City of

• *Initial registered agent*

Fairfax, Virginia. The name of the Corporation's initial registered agent is E.A. Prichard, who is a resident of the State of Virginia, a member of the Virginia State Bar, an initial director of the Corporation, and whose business office is the same as the registered office of the Corporation.

6. *Initial directors*

6. The number of directors constituting the initial Board of Directors is five and the names, addresses, and length of the initial term of the persons who are to serve as the initial directors are:

Name	Address	Initial Term (until annual meeting of members held in:)
E.A. Prichard	106 N. Payne St., Fairfax, Virginia	1965
Jefferson S. Smith	Reston, Virginia	1966
Glenn W. Saunders, Jr.	Reston, Virginia	1966
Joseph E. Seubert	Reston, Virginia	1967
David O. McKinley	Reston, Virginia	1967

s/ Richard R.G. Hobson  
s/ Thomas J. Middleton, Jr.  
s/ R. Dennis McArver  
Incorporators

Dated: Nov. 16, 1964  
STATE OF VIRGINIA  
COUNTY OF FAIRFAX, to-wit:

I, the undersigned, a notary public in and for the County and State aforesaid, do certify that Richard R.G. Hobson, Thomas J. Middleton, Jr., and R. Dennis McArver, whose names are signed to the foregoing Articles of Incorporation, bearing date of 16th day of November, 1964, have acknowledged the same before me in my County and State aforesaid.

My term of office expires on the 9th day of August, 1965.

GIVEN under my hand this 16th day of November, 1964.

s/ Nancy O. Cameron  
Notary Public