

WORKING DRAFT
The Apex Festival Commission
Bylaws

ARTICLE I

Offices

1.1 *Principal office.* The principal office of the Corporation shall be located at 220 North Salem Street, Apex, NC 27502, or at such other location designated by the Board of Directors.

1.2 *Registered office.* The registered office of the Corporation required by law to be maintained in the State of North Carolina may be, but need not be, identical with the principal office. The current location of the Registered Office is 220 North Salem Street, Apex, NC 27502.

1.3 *Other offices.* The Corporation may have offices at such other places, either within or without the State of North Carolina, as the Board of Directors may designate or as the affairs of the Corporation may require from time to time.

Article II

Board of Directors

2.1 *General Powers.* The business and affairs of the Corporation shall be directed by its Board of Directors. Except as otherwise expressly provided by law, the Articles of Incorporation, or these Bylaws, all of the powers of the Corporation shall be vested in the Board of Directors.

2.2 *Number, term, and qualifications.* The number of directors constituting the Board of Directors may vary, but shall not be more than 10 nor less than 5. Each director shall hold office until his death, resignation, retirement, removal, disqualification, or his successor shall have been elected and qualified. Directors need not be residents of the State of North Carolina or shareholders of the Corporation.

2.3 *Election of directors.* Directors shall be elected from candidates offered by below-listed agencies at any annual or special meeting of the Board of Directors by a vote of a majority of the directors then in office. (The Chairperson and Vice-Chairperson are voting members of the Board.) Various Apex Businesses and agencies shall be responsible for nominating candidates to *serve* on the Board of Directors upon the opening of a position on the Board. Candidates *for* offices shall be nominated as follows: The Chamber of Commerce shall nominate

candidates for the offices of Community Relations and Entertainment. The Downtown Merchant's Association shall nominate candidates for the Merchandising, Volunteer Coordination, and Publicity offices; *BB&T* shall nominate a candidate for the office of the Treasurer; the Town of Apex shall nominate candidates for the offices of Logistics/Security and Artisans/Concessions. In the event the Board of Directors does not vote on the candidate chosen by the above-listed agencies, the agencies shall choose another candidate to be voted on by the Board. The election of directors shall be a part of the order of business at each annual meeting of the Board of Directors. Each director elected shall hold office until his successor is elected and qualifies.

2.4 *Removal.* Directors may be removed from office at any time with or without cause by the directors by such vote as would be required to elect a member of the Board of Directors. Removal as herein referred to, means removal from both the position of Officer and Board Member.

2.5 *Vacancies.* Any vacancy occurring on the Board of Directors, may be filled by the affirmative vote of a majority of the remaining directors (from any candidate supplied by the sponsoring agency) even though less than a quorum, or by the sole remaining director. A director elected to fill a vacancy shall be elected for the unexpired term of his predecessor in office.

2.6 *Chairman of the Board.* There shall be a Chairman and Co-Chairman of the Board of Directors elected by the directors from their number at any meeting of the Board of Directors. The Chairman, or in his absence the Co-Chairman, shall preside at all meetings of the Board of Directors, and each shall perform such other duties as may be directed by the Board of Directors. The Chairman and Co-Chairman shall be officers of the Corporation.

2.7 *Compensation.* The Board of Directors may compensate directors for their services as such and may provide for the payment of any or all expenses incurred by directors in attending regular and special meetings of the Board of Directors. This provision shall not preclude directors from serving the Corporation in other capacities and receiving compensation for such other services.

ARTICLE III *Meetings of Directors*

3.1 *Annual meetings.* The annual meeting of the Board of Directors shall be held at 5:30 p.m. on the 1st Thursday in November of

each year, for the purpose of electing directors and officers of the Corporation and for the transaction of any other business properly before the Board of Directors. If the day fixed for the annual meeting shall be a legal holiday, the meeting shall be held on the next succeeding business day that is not a legal holiday. If the annual meeting shall not be held on the day designated by these Bylaws, a substitute annual meeting may be called by or at the request of the Board of Directors and such meeting shall be designated and treated for all purposes as the annual meeting.

3.2 *Special meetings and other regularly scheduled meetings.* Special meetings of the Board of Directors may be called by or at the request of the Chairman or the majority of Directors. Other meetings may be regularly scheduled.

3.3 *Notice of meetings.* The Secretary shall give notice of each annual meeting of the Board of Directors by mailing such notice to each director at least ten days before the meeting. The Chairman or other persons calling a special meeting of the Board of Directors shall give notice thereof (or cause the Secretary to give notice) by mailing such notice to each director at least two days before the meeting. Unless otherwise indicated in the notice thereof, any and all business may be transacted at a meeting of the Board of Directors, except as otherwise provided by law or these Bylaws.

3.4 *Waiver of notice.* Any director may waive notice of any meeting, either before or after the meeting. Written waivers of notice shall be filed by the Secretary with the corporate records or as part of the minutes of the meeting. The attendance by a director at a meeting shall constitute a waiver of notice of such meeting, except where a director at the beginning of the meeting or promptly upon his arrival objects to the holding of the meeting and does not vote for or assent to any action taken at the meeting.

3.5 *Quorum.* A majority of the number of directors fixed by these Bylaws shall constitute a quorum for the transaction of business at any meeting of the Board of Directors.

3.6 *Manner of acting.* Except as otherwise provided in these Bylaws or as required by law, 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.

3.7 *Presumption of assent.* A director of the Corporation who is present at a meeting of the Board of Directors at which action on any corporate matter is taken shall be presumed to have assented to the

action taken unless (a) he objects to holding the meeting or transacting business at the meeting at the outset, (b) his dissent or abstention from the action is entered in the minutes of the meeting, or (c) he files his written dissent to or abstention from such action with the person acting as the secretary of the meeting before the adjournment thereof or forwards his written dissent by registered mail to the Secretary of the Corporation immediately after the adjournment of the meeting. The right to dissent shall not apply to a director who voted in favor of such action.

3.8 *Informal action by directors.* Action taken by a majority of the directors without a meeting is nevertheless action of the Board of Directors if written consent to the action in question is signed by all of the directors and filed with the minutes of the proceedings of the Board of Directors, whether done before or after the action so taken.

3.9 *Participation by telephone.* Anyone or more directors or members of a committee may participate in a meeting of the Board of Directors or committee by means of a conference telephone or similar communications device that allows all persons participating in the meeting to hear each other. Participation by this means shall be deemed presence in person at the meeting.

ARTICLE IV

Officers

4.1 *Officers of the Corporation.* The officers of the Corporation shall consist of a Chairman/President, a Co-Chairman/Secretary, and a Treasurer. Any two or more offices, except Chairman/President and Co-Chairman/Secretary, may be held by the same person. No officer may act in more than one capacity where the action of two or more officers is required.

4.2 *Election and term.* The officers of the Corporation shall be elected by the Board of Directors, and each officer shall hold office until his death, resignation, retirement, removal, or disqualification or until his successor shall have been elected and qualified.

4.3 *Renewal.* Any officer or agent elected or appointed by the Board of Directors may be removed by the Board of Directors with or without cause, whenever in its judgment the best interests of the Corporation will be served thereby.

4.4 *Bonds.* The Board of Directors may by resolution require any officer, agent, or employee of the Corporation to give bond to the

Corporation, with sufficient sureties, conditioned on the faithful performance of the duties of his respective office or position, and to comply with such other conditions as may from time to time be required by the Board of Directors.

4.5 *Chairman/President.* The Chairman/President shall be the chief executive officer of the Corporation and shall be primarily responsible for the implementation of policies of the Board of Directors. He/ she shall have authority over the general management of the Corporation in accordance with these Bylaws, subject only to the ultimate authority of the Board of Directors. He may sign and execute instruments in the name of the Corporation except in cases where the signing and the execution thereof shall be expressly delegated by the

Board of Directors or by these Bylaws to some other officer or agent of the Corporation or shall be required by law otherwise to be signed or executed. In addition, he shall perform all duties incident to the office of the Chairman/President and such other duties as from time to time may be assigned to him by the Board of Directors.

4.6 *Co-Chair/Secretary.* The Co-Chairman/Secretary shall keep the minutes of the meetings of the Board of Directors. He shall keep all minutes of all such meetings in books designated for those purposes. The Co-Chairman/ Secretary shall see that all notices are duly given in accordance with the provisions of these Bylaws or as required by law. He shall have charge of the books, records, and papers of the Corporation. He shall have custody of the seal of the Corporation and see that 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 shall sign such instruments as may require his signature. He shall in general perform all duties incident to the office of Secretary and such other duties as from time to time may be assigned to him by the Chairman/President, by the Board of Directors, or by these Bylaws.

4.7 *Treasurer.* The Treasurer shall have charge of and be responsible for all funds and securities, receipts, and disbursements of the Corporation, and shall deposit all money and securities of the Corporation in such banks and depositories as shall be designated by the Board of Directors, provided that the Board of Directors may appoint a custodian or depository for any such funds or securities, and the Board of Directors may designate those persons upon whose signature or authority such funds may be disbursed.. He shall be responsible (a) for maintaining adequate financial accounts and records in accordance with generally accepted accounting practices; (b) for the preparation of appropriate operating budgets and financial statements; and (c) preparing and filing all tax returns required by law.

4.8 *Validity of Signatures.* In case any person whose signature shall appear on any bond, note, other evidence of indebtedness of the Corporation shall cease to be an officer or hold an office different from that held at the time of signature before the delivery of such instrument, such signature shall nevertheless be valid and sufficient for all purposes - the same as if he had remained in such office until such delivery.

4.9 *Compensation.* The compensation of all officers of the Corporation shall be fixed by the Board of Directors, and no officer shall serve the Corporation in any other capacity and receive compensation therefore unless such additional compensation is authorized by the Board of Directors prior to the rendition of such services.

ARTICLE V

Committees

5.1 *Existing Committees.* The agencies listed in 2.3, above, will annually choose Committee leader candidates for the following committees: (a) Logistics and Security, (b) Merchandising, (c) Entertainment, (d) Artisans and Concessions, (e) Publicity, (f) Volunteer Report, and (g) Community Relations. As explained in 2.3, above, these candidates will then be voted on by a majority of the Board of Directors.

5.2 *New Committees.* Other committees may be formed as the Board of Directors deems necessary.

ARTICLE VI

Indebtedness

6.1 No indebtedness of the Corporation in excess of \$10,000 shall be incurred other than in the normal course of business, except as may be approved by resolution adopted by a majority of the directors in office.

6.2 Any or all of such indebtedness may be represented by notes, debentures, bonds, or other securities, either unsecured or secured by, or issued under a mortgage, trust indenture, or otherwise, and may be issue at such times and upon such terms as the Board of Directors shall determine.

ARTICLE VII*Contracts, Loans, Checks, and Deposits*

7.1 *Contracts.* The Board of Directors may authorize, by majority approval, any officer or officers, agent or agents, to enter into any contract or execute and deliver any instrument in the name of and on behalf of the Corporation, and such authority may be general or confined to specific instances.

7.2 *Loans.* No loans shall be contracted on behalf of the Corporation and no evidence 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.

7.3 *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 employees of the Corporation and in such manner, including facsimile signatures, as shall from time to time be determined by resolution of the Board of Directors.

7.4 *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 may select.

ARTICLE VIII*General Provisions*

8.1 *Seal.* The corporate seal of the Corporation shall contain the name of the Corporation and shall be in such form as approved by the Board of Directors.

8.2 *Waiver of notice.* Whenever any notice is required to be given to any director by law, by the Articles of Incorporation, or by these Bylaws, a waiver thereof in writing signed by the director or directors entitled to such notice, whether before or after the time stated therein, shall be equivalent to the giving of such notice.

8.3 *Indemnification.* The Corporation shall indemnify its officers and directors to the maximum extent required or permitted by Sections 55A-17.1, 55A-17.2, and 55A-17.3 of the General Statutes of North Carolina as from time to time amended, and such officers and directors shall be deemed to have relied upon this section.

8.4 *Fiscal Year.* The fiscal year of the Corporation shall be as fixed by the Board of Directors.

8.5 *Amendment of Bylaws.* Except as otherwise provided by Jaw, by the Articles of Incorporation or herein, these Bylaws may be amended or repealed and new Bylaws may be adopted by the affirmative vote of a majority of the directors then holding office at any annual or special meeting of the Board of Directors; provided, however, that notice of the proposed action shall have been included in the notice of the meeting or shall have been waived as provided in these Bylaws.

8.6 *Dissolution.* In the event that The Apex Festival Commission is dissolved for any reason, voluntarily or involuntarily, any remaining proceeds will not inure to the benefit of any individual or private interest.

8.7 *Events.* The Apex Festival Commission will assist with Apex Peak Week Festival, Apex Today and Yesteryear Festival, and Apex Olde Fashioned 4th of July Celebration held annually. The Apex Festival Commission is not limited to these activities, and may participate in any other lawful activity selected by the Board of Directors.

8.8 *Political Activities.* The Apex Festival Commission will not participate in any political campaign or political lobbying group.

