

**Marblehead Festival of Arts, Inc.**  
**By-Laws of the Corporation**

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## **Marblehead Festival of Arts, Inc.**

### **By-Laws of the Corporation**

#### **Description of the Corporation**

##### **Article I**

###### **Name, Location, and Corporate Seal**

The name of the Corporation is Marblehead Festival of Arts, Inc. (hereinafter "the Corporation"). The principal place of business of the Corporation shall be in the Town of Marblehead, County of Essex, Commonwealth of Massachusetts. The Corporation may also have offices at such other locations as the Board of Directors may from time to time designate or the business of the Corporation may require.

The seal shall have inscribed thereon the name of the Corporation, year of organization, and the words "Incorporated Massachusetts." Custody of the seal shall be retained by the Treasurer of the Corporation or his or her designee.

##### **Article II**

###### **Purposes of the Corporation**

The purposes of the Corporation are to promote, foster, and encourage the fine arts and other forms of arts and crafts, including but not limited to painting, music, drama, sculpture, cinema, and ballet, and to promote, foster, and encourage the artistic development of Marblehead through arts-related activities including the production of an annual arts festival.

In furtherance of the aforementioned objectives, the Corporation may borrow funds, raise funds by solicitation, contract to acquire or lease real estate and personal property, hire employees, and perform all other acts that may be necessary and proper to effectuate the aforementioned purposes of the Corporation.

##### **Article III**

###### **Membership of the Corporation**

All persons who attended the first meeting of the Marblehead Festival of Arts, Inc. (March 1963) shall be deemed Regular Members of the Corporation. New Regular Members may be nominated by then-current Regular Members and, after nomination, may be elected by a vote of the Regular Members who are present and voting at an Annual Meeting or a Special Meeting. Regular Members of the Corporation shall be entitled to vote at all meetings of the members of the Corporation.

Any Regular Member who has missed two (2) consecutive Annual Meetings without satisfactory notice or explanation in writing to the Secretary may, by a vote of the Regular Members who are present and voting at an Annual Meeting, be removed from the rolls of the Regular Members of the Corporation and be made an Inactive Member of the Corporation. Any Regular Members who have been made Inactive Members shall be so notified in writing; such notification shall be sent to each such member at his or her

last known email or postal address by the Secretary following the meeting in which the member was made inactive. Inactive Members shall not be entitled to vote at meetings of the members of the Corporation, but may enjoy all other privileges and benefits of membership.

Any Regular Member or Inactive Member who has missed three (3) consecutive Annual Meetings without satisfactory notice or explanation in writing to the Secretary may, by a vote of the Regular Members who are present and voting at an Annual Meeting, be removed from all rolls of the members of the Corporation. Any Regular and Inactive Members who have been removed from membership shall be so notified in writing; such notification shall be sent to each such member at his or her last known email or postal address by the Secretary following the meeting in which the member was removed.

The Secretary shall be responsible for maintaining a register of all Regular Members that contains their names, current postal addresses, current email addresses (if available), and dates of admission to membership. The Secretary shall also be responsible for maintaining a register of all Inactive Members and a register of all persons who have been removed from membership. Each such register shall list names, last known postal and email addresses, dates of admission to membership, and dates of inactive status or removal from membership.

## **Board of Directors**

### **Article IV**

#### **Officers and Directors**

The Officers of the Corporation shall be a President, First Vice President, Second Vice President, Treasurer, and Secretary. The Officers may also include a Third Vice President and an Immediate Past President, as set forth below.

The Board of Directors of the Corporation shall consist of the Officers and between six (6) and eight (8) Directors. Directors, once elected, may also serve as committee chairpersons. All Officers and Directors, except the Third Vice President and the Immediate Past President, shall be elected each year, by ballot, by the Regular Members of the Corporation who are present and voting at the Annual Meeting. When deemed necessary, a Third Vice President may be elected either by the Regular Members, as set forth above, or by a majority vote of the members of the Board of Directors then currently in office. The outgoing President may serve as Immediate Past President for the year immediately following his or her term of office as President.

Each member of the Board of Directors shall serve a one-year term. All Officers and Directors except the Immediate Past President may be nominated for reelection. No prescribed term limits shall be imposed for any Officer or Director except the Immediate Past President, as stipulated in these By-Laws.

### **Article V**

#### **Nominating Committee**

At least sixty (60) days prior to the Annual Meeting, the President shall appoint a Nominating Committee of at least three (3) people. In so doing, the President shall endeavor to appoint, as a majority, members of the Nominating Committee who are then neither current members of the Board of Directors nor candidates for election to the Board of Directors at the upcoming Annual Meeting. The President shall

not serve on the Nominating Committee. Upon appointment of the Nominating Committee, the names of the members of the committee shall be sent to the members of the Corporation, in the manner prescribed by these By-Laws for notice of meetings of members.

The Nominating Committee shall endeavor to propose one candidate for each Officer position, excluding Immediate Past President, and including, when applicable, Third Vice President. The Nominating Committee shall further propose between six (6) and eight (8) candidates for the positions of Director. The Nominating Committee shall expend all reasonable efforts to nominate candidates who have available time and appropriate knowledge of the operations of the Corporation to serve effectively in the positions for which the candidates are being nominated.

The names of the candidates and the positions for which they have been proposed by the Nominating Committee shall be given in the Notice of the Annual Meeting. The President, at the Annual Meeting, shall nominate the candidates as proposed by the Nominating Committee. Additional nominations may be made from the floor during the Annual Meeting, after which nominations shall be closed, the ballot taken, and the results announced by the moderator and recorded by the Secretary. If the total number of people nominated as Directors exceeds eight (8), the eight nominees with the highest number of votes shall be elected as the Directors.

## **Article VI**

### **Powers of Board of Directors**

The property, affairs, and business of the Corporation shall be managed and directed by the Board of Directors, who may exercise all such powers of the Corporation as are set by law or by these By-Laws. In addition, the Board of Directors may appoint such committees, or assistants to Officers, as it deems necessary, and may, at its discretion, establish criteria for the granting of specified donor benefits to volunteers during the then-current fiscal year of the Corporation.

## **Article VII**

### **Meetings of Board of Directors**

Meetings of the Board of Directors shall be held as necessary, preferably monthly but at least every three (3) months, to manage and direct the property, affairs, and business of the Corporation. Such meetings may be held at such times and locations, or via such communication methods that allow remote participation (as defined below), as the President or Board of Directors may determine. Meetings of the Board of Directors may also be called at any time by any three (3) or more members of the Board of Directors.

At any meeting of the Board of Directors that includes remote participation, all persons who are participating remotely and all persons who are present at the meeting location, if any, must be able to hear each other clearly at all times throughout the meeting. Such remote participation shall constitute presence in person at the meeting. The minutes of such meeting shall, as part of the list of persons present at the meeting, identify all persons who participated remotely.

Notice of all meetings of the Board of Directors shall be given by the Secretary or, in case of his or her absence, incapacity, or disability, by such member of the Board of Directors as the President shall

appoint. The notice shall be sent via email at least forty-eight (48) hours before the day fixed for any such meeting and shall state the location (or means of remote participation), day, hour, and purpose of such meeting. The actions of the members of the Board of Directors who are present and eligible to vote at any meeting shall be valid notwithstanding any defect in the notice of such meeting. Every Officer and Director shall for all purposes be deemed to have been duly notified of any meeting if he or she is present at such meeting or in writing waives notice thereof, either before or after the meeting.

Any urgent matter requiring approval of the Board of Directors before its next meeting may be voted on electronically, provided that the following conditions are met: (1) a written motion regarding such matter, accompanied by relevant justification, is first sent via email to all members of the Board of Directors; (2) the results of the electronic voting are disseminated by the President or Secretary to the Board of Directors upon conclusion of the voting; and (3) the results of the electronic voting are recorded by the Secretary in the minutes of the next meeting of the Board of Directors. A majority vote of the members of the Board of Directors then currently in office shall be required to approve any such motion.

## **Article VIII**

### **Quorum and Voting of Board of Directors**

A majority of the Board of Directors then currently in office shall constitute a quorum of the Board of Directors for the transaction of business. In all matters in which a vote of the Board of Directors is required, a majority vote of the members of the Board of Directors who are present and eligible to vote, provided that a quorum is present either in person or via remote participation (as defined in these By-Laws), shall be required to approve the motion, unless otherwise stipulated by these By-Laws.

## **Article IX**

### **Executive Committee**

The Executive Committee shall comprise all Officers then currently in office. Meetings of the Executive Committee may be held whenever deemed necessary by the Officers. All Executive Committee recommendations decided upon since the last meeting of the Board of Directors shall be presented at the next meeting of the Board of Directors as a regular item of business.

## **Article X**

### **Resignations, Terminations, and Vacancies**

Any Officer or Director may resign from his or her position at any time. Such resignation shall be made in writing to the Board of Directors and shall include an effective date or, in the absence of an effective date, shall take effect on the date the resignation letter was received.

Any Officer or Director may be terminated from his or her position for cause at any time by a two-thirds (2/3) vote of the members of the Board of Directors then currently in office. For the purposes of this Article, cause shall include, but is not limited to, absence from three (3) consecutive meetings of the Board of Directors without satisfactory notice or explanation in writing to the President or Secretary, or failure to perform his or her duties as prescribed by these By-Laws or by the Board of Directors. Such a

vote may be taken only after written notice of the proposed termination has been given to both the affected person and the members of the Board of Directors not less than ten (10) days prior to the date of the vote, and also only after the affected person has been given an opportunity to be heard at a meeting of the Board of Directors.

Vacancies resulting from any such resignations and terminations, and from any unfilled positions, may be filled by a majority vote of the members of the Board of Directors then currently in office.

## **Duties of Officers**

### **Article XI**

#### **President**

The President, when present, shall preside over all meetings of the Board of Directors, of the Executive Committee, and of the members of the Corporation; shall enforce and carry out the orders of the Board of Directors; and shall discharge all other duties imposed by law or prescribed by these By-Laws.

The President, in addition to the Treasurer, shall have signatory authority for the Corporation's financial accounts.

The President shall have signatory authority for contracts and shall sign all contracts on behalf of the Corporation. The President may delegate any portion of such responsibility, in writing, as he or she deems necessary. If the President chooses to delegate a portion of the signatory responsibility for contracts, the Board of Directors shall approve a fiscal limit on such delegated responsibility.

### **Article XII**

#### **Vice Presidents**

The First Vice President shall, in the President's absence, preside over all meetings of the Board of Directors, of the Executive Committee, and of the members of the Corporation; shall enforce and carry out appropriate orders and instructions of the President; and, in the President's absence, shall carry out the duties of the President. The First Vice President shall discharge all other duties imposed by law or prescribed by these By-Laws or by the Board of Directors.

The Second Vice President shall discharge all of the aforementioned duties in the absence of the President and First Vice President.

The Third Vice President, if elected, shall discharge all of the aforementioned duties in the absence of the President, First Vice President, and Second Vice President.

The duties of the Vice Presidents shall include, but are not limited to, the oversight of all operational activities of the Corporation in accomplishing its purposes. The Board of Directors may allocate these and other duties among the Vice Presidents in any manner it deems fit.

## **Article XIII**

### **Treasurer**

The Treasurer shall have custody of and shall safely keep all monies, debts, obligations, contracts, and other financial papers belonging to the Corporation. All monies shall be deposited in a federally insured account, at a financial institution approved by the Board of Directors, in a timely manner and in conformance with good business practices.

The Treasurer shall collect all monies due and owed to the Corporation. The Treasurer shall also disburse monies, by check of the Corporation or by electronic funds transfer, pursuant to: (1) the contracts and obligations of the Corporation, (2) an order of the Board of Directors, or (3) a vote of the Regular Members at an Annual Meeting or a Special Meeting of the members of the Corporation.

The Treasurer shall make, sign, endorse, and accept, for and in the name of and on behalf of the Corporation, promissory notes, drafts, acceptances, and other negotiable instruments, and then only in the regular course of business of the Corporation.

The Treasurer shall execute and deliver on behalf of the Corporation all such instruments under its corporate seal as may be necessary in the conduct of the business, or as may be ordered by the Board of Directors or by the Regular Members via a vote at an Annual Meeting or a Special Meeting. The Treasurer shall, with the Secretary's assistance if necessary, be responsible for filing all documents required by State or Federal law, including but not limited to Annual Reports, Tax Statements, and Form PCs.

The Treasurer shall give a detailed report of the financial condition of the Corporation to the Board of Directors once every three (3) months, and to the members of the Corporation at the Annual Meeting. Such report shall include a statement of insurance policies held by the Corporation and their coverage limits. The books and financial statements of the Corporation shall be reviewed annually by a Certified Public Accountant or shall undergo such annual independent examination as may be required by law or the regulations of the Commonwealth of Massachusetts. The books and financial statements shall also be reviewed or examined independently at any other time as designated by the Board of Directors.

The Treasurer shall further discharge all other duties imposed by law or prescribed by these By-Laws or by the Board of Directors.

In the Treasurer's temporary absence, incapacity, or inability to act as Treasurer, the President shall appoint a member of the then-current Board of Directors to serve as a temporary Treasurer.

The Board of Directors, at its discretion, may appoint an assistant to the Treasurer. The duties of the assistant to the Treasurer shall be specified in the motion or order to appoint such position.

## **Article XIV**

### **Secretary**

The Secretary, who shall be a resident of the Commonwealth of Massachusetts, shall attend all meetings of the members of the Corporation, of the Board of Directors, and of the Executive Committee, and shall be responsible for maintaining full, true, and accurate records of all business transacted at such

meetings. The Secretary shall give notice of all meetings of the members of the Corporation and of the Board of Directors, in the manner prescribed by these By-Laws.

The Secretary shall be responsible for maintaining true, correct, and complete copies of all relevant documents of the Corporation, including but not limited to the Articles of Organization, By-Laws, policies, and registers of Regular and Inactive Members and former members. The Secretary shall further discharge all other duties imposed by law or prescribed by these By-Laws or by the Board of Directors.

In the Secretary's temporary absence, incapacity, or inability to act as Secretary, the President shall appoint a member of the then-current Board of Directors to serve as a temporary Secretary.

## **Article XV**

### **Immediate Past President**

The person who most recently served as President may serve as Immediate Past President during the first term of the succeeding President. The Immediate Past President shall be available to aid and advise the then-current Officers and Directors. Upon completion of a one-year term, the Immediate Past President shall not continue to serve in this role.

## **Meetings of Members of the Corporation**

## **Article XVI**

### **Annual Meeting of Members of the Corporation**

The Annual Meeting of the members of the Corporation shall be held at a venue (selected by the Board of Directors) in the Town of Marblehead, Commonwealth of Massachusetts, on the fourth (4th) Tuesday in September each year. If, at the direction of the President, the Annual Meeting cannot be held on such date, it shall be held as soon as possible afterward, preferably within thirty (30) days after the fourth Tuesday in September.

In the event that the Annual Meeting for any year is not duly called or held, the President or the Board of Directors shall cause a Special Meeting to be held as soon as reasonably possible thereafter in lieu of, and for the purpose of, such Annual Meeting, and all proceedings at such Special Meeting shall have the same force and effect as if conducted at the Annual Meeting.

At every Annual Meeting, and at any Special Meeting held for the purpose of an Annual Meeting, elections shall be held for all Officers and Directors, as applicable, and for any new Regular Members of the Corporation as nominated by then-current Regular Members. Any nomination and election of new Regular Members shall be the last regular item of business prior to adjournment of the meeting.

The notice of the Annual Meeting shall include a statement reminding Regular Members that failure to attend two (2) successive Annual Meetings, without satisfactory notice or explanation in writing to the Secretary, may result in the Regular Member being voted to inactive status pursuant to these By-Laws. The notice of the Annual Meeting shall further include a statement reminding both Regular Members and Inactive Members that failure to attend three (3) successive Annual Meetings, without satisfactory



notice or explanation in writing to the Secretary, may result in the member being removed from the membership of the Corporation pursuant to these By-Laws.

## **Article XVII**

### **Special Meetings of Members of the Corporation**

Special Meetings of the members of the Corporation shall be held at a venue (selected by the Board of Directors) in the Town of Marblehead, Commonwealth of Massachusetts.

Upon request in writing by the President or by a majority of the members of the Board of Directors then currently in office, a Special Meeting shall be called by the Secretary or, in the case of his or her absence, incapacity, or disability, by such member of the Board of Directors as the President shall appoint. Upon written application to the Secretary of five (5) or more Regular Members of the Corporation, a Special Meeting shall be called by the Secretary or, in the case of his or her absence, incapacity, or disability, by any other Officer.

At any Special Meeting during which an election of new Regular Members of the Corporation is to be held, the nomination and election of new Regular Members shall be the last regular item of business prior to adjournment of the meeting.

## **Article XVIII**

### **Notice of Meetings of Members of the Corporation**

Notice of all meetings of the members of the Corporation shall be given by the Secretary or, in case of his or her absence, incapacity, or disability, by such member of the Board of Directors as the President shall appoint. The notice shall be sent at least fourteen (14) days before the day fixed for any such meeting and shall state the location, day, hour, and purpose of such meeting. Such written notice shall be addressed to each member of the Corporation on record at his or her email or postal address as it appears in the records of the Corporation. Every member of the Corporation shall for all purposes be deemed to have been duly notified of any meeting if he or she is present at such meeting or in writing waives notice thereof, either before or after the meeting.

## **Article XIX**

### **Quorum and Voting of Members of the Corporation**

At every meeting of the members of the Corporation, fifteen (15) Regular Members on record shall constitute a quorum. In all matters requiring a vote of the members, a majority vote of the Regular Members who are present and voting, provided that a quorum is present, shall be required to approve the motion, unless otherwise stipulated by these By-Laws or by law.

## **Operational Practices**

### **Article XX**

#### **Notice**

Whenever, under the provisions of these By-Laws, notice is required to be given to any Officer, Director, or member of the Corporation, it shall be construed to be a personal notice unless otherwise specified. Such notice shall be given in writing by sending it to such Officer, Director, or member at his or her email or postal address as it appears in the records of the Corporation. The time of giving such notice shall be the time when the notice is postmarked or electronically date-stamped.

Any notice to any Officer, Director, or member of the Corporation may be waived in writing to the Secretary at any time by the person entitled to such notice, and such person shall be bound by actions taken at any meeting referenced in such waiver and at any adjournment thereof.

### **Article XXI**

#### **Conflicts of Interest**

Whenever an Officer or Director, or a member of his or her immediate family, has a financial or personal interest in any financial matter coming before the Board of Directors, the affected person shall fully disclose the nature of the interest and shall withdraw from discussion, lobbying, and voting on the matter. Any contract or transaction involving a potential conflict of interest, as defined above, shall be approved only when a majority of disinterested Officers and Directors who are present and voting determines that it is in the best interest of the Corporation to do so. The minutes of meetings of the Board of Directors at which such votes are taken shall record such disclosure, recusal, and rationale for approval.

Notwithstanding the provisions of this Article, any member of the Board of Directors and any member of the Corporation may enter his or her work in any judged or juried exhibit sponsored by the Corporation and may be awarded any prizes attendant to such exhibit, provided that he or she has no known conflict of interest beyond being a member of the Board of Directors or a member of the Corporation.

No funds belonging to the Corporation shall inure to the benefit of, or be distributable to, any Officer or Director or any member of the Corporation except as reasonable payment for goods or professional services actually rendered to or for the benefit of the Corporation, or as reimbursement for out-of-pocket expenses actually incurred on behalf of the Corporation, or as otherwise provided by this Article.

Members of the Board of Directors shall not be granted a waiver of fees related to any Corporation-sponsored judged or juried exhibits or events, or a waiver of commissions on the sales of any works displayed at any Corporation-sponsored exhibits or events.

The minutes of meetings of the Board of Directors shall record the results of any votes taken to grant specified donor benefits to individual members of the Board of Directors during the then-current fiscal year of the Corporation.

## **Article XXII**

### **Insurance and Bonds**

The Corporation shall carry both Directors and Officers Liability Insurance and General Liability Insurance. The Corporation shall also procure bonds for the Treasurer and President, as well as for any other individuals who have signatory authority for the Corporation's financial accounts. Each such bond shall be equal to double the financial assets of the Corporation as listed in the annual Treasurer's Report as presented at the most recent Annual Meeting of members of the Corporation.

## **Article XXIII**

### **Policies and Governance**

These By-Laws shall be made publicly available via posting to the Corporation's website, and notification that they are so available shall be sent annually to the members of the Corporation, in the manner prescribed by these By-Laws for notice of meetings of members.

It is the responsibility of the Board of Directors to promulgate policies that specify the responsibilities of each Officer and Director, and policies for the governance of operations of the Corporation. The Board of Directors shall, as soon as practicable after its election, review all policies and, if deemed necessary, amend or replace policies or write new policies. All then-current policies shall be made available to members of the Corporation upon request.

## **Article XXIV**

### **Fiscal Year**

The fiscal year of the Corporation shall be the twelve-month period beginning on October 1 and ending on and including September 30.

## **Article XXV**

### **Amendment of By-Laws**

These By-Laws may be amended or replaced and new By-Laws adopted by a vote of two-thirds (2/3) of the Regular Members of the Corporation who are present and voting at any Annual Meeting, or at any Special Meeting called for the purpose of taking action on such amendment, replacement, or new By-Laws, provided that notice of such proposed action has been given at a previous meeting of the members of the Corporation, and written notice of the proposed amendment, replacement, or new By-Laws is given to each member not less than fourteen (14) days prior to the date of the relevant Annual Meeting or Special Meeting, in the manner prescribed by these By-Laws for notice of meetings of members.

**Article XXVI**

**Dissolution of the Corporation**

A petition for dissolution of the Corporation may be authorized by a majority vote of all then-current Regular Members of the Corporation. Such vote may take place at any Annual Meeting, or at any Special Meeting called for the purpose of authorizing a petition for dissolution, provided that written notice of the motion to authorize such petition is given to each member not less than fourteen (14) days prior to the date of the relevant Annual Meeting or Special Meeting, in the manner prescribed by these By-Laws for notice of meetings of members. Upon dissolution, any remaining assets of the Corporation shall be distributed in accordance with the laws and regulations of the Commonwealth of Massachusetts.

**Adopted March, 1963**

Amended September 1963  
Amended November 1973  
Amended November 1980  
Amended October 1990  
Amended September 2018

Amended October 1968  
Amended October 1974  
Amended October 1984  
Amended September 1999

Amended September 1970  
Amended October 1978  
Amended September 1989  
Amended November 2016