

# **THE FRIENDS OF THE PUBLIC GARDEN, INC.**

## **BYLAWS**

### **ARTICLE I – NAME AND PURPOSES**

The name and purposes of the corporation shall be as set forth in the Articles of Organization.

### **ARTICLE II – LOCATION AND FISCAL YEAR**

The principal office of The Friends of the Public Garden, Inc. (“the Friends”) is at 69 Beacon Street, Boston. The fiscal year is the calendar year. The Directors may change the location of the principal office and the fiscal year effective upon filing a certificate with the Secretary of the Commonwealth.

### **ARTICLE III – MEMBERS**

1. The Board of Directors (“the Directors” or “the Board”) may from time to time create categories of membership with responsibilities and privileges as it deems appropriate. Members (“Members”) shall be the persons, including individuals, corporations, foundations, trusts, and partnerships, who have paid such dues for the then current fiscal year as the Board has set for their respective class of membership.

2. Each Member shall have one vote. Members may vote at meetings of the Members only in person.

### **ARTICLE IV – MEETINGS OF MEMBERS**

1. All meetings of the Members shall be held in Massachusetts at such place as is stated in the notice of such meeting.

2. An Annual Meeting of the members shall be held at such date, hour and place as the Board may determine. The purposes for which such meeting is to be held, in addition to those prescribed by these Bylaws, may be specified in writing by the Board, the Executive Committee, the Chair or by twenty-five (25) or more Members in good standing. If such Annual Meeting is not held as herein provided, a special meeting may be held in lieu thereof, and any business transacted or elections held at such meeting shall have the same effect as if transacted or held at the Annual Meeting.

3. Special meetings of the Members may be called by the Chair, the Executive Committee, or by the Secretary upon the request of twenty-five (25) or more Members in good standing.

4. A written notice of each meeting of Members, stating the place, day and hour thereof and the purpose or purposes for which the meeting is called, shall be given to each Member at least fourteen (14) days in advance by mailing it postage pre-paid to each Member at his or her address as it appears upon the books of the corporation. No such notice shall be required if every Member or their attorney, duly authorized, waives such notice by a writing filed with the records of the meeting.

5. Except as otherwise specifically required by law or by the Articles of Organization or these Bylaws, twenty-five (25) voting Members shall constitute a quorum for any annual or special meeting of the Members, and when a quorum is present at any such meeting, a majority of the votes cast shall, except where a larger vote is required by these Bylaws, decide any question brought before such meeting. A majority of those present at any meeting, though less than a quorum, may adjourn the meeting from time to time and such meeting may be held as adjourned with further notice.

## **ARTICLE V – BOARD OF DIRECTORS**

1. The governing body of the Friends shall be the Board, which shall have general supervision and control over the property and affairs of the Friends and shall have and may exercise, subject to law, the Articles of Organization, and these Bylaws, all of the powers of the corporation.

2. The Board shall be composed of a Chair, one or more Vice Chairs, a Treasurer and a Secretary and no fewer than twelve or more than thirty additional Individual Directors, not including any Honorary Directors.

3. The Individual Directors shall be chosen at the Annual Meeting by majority vote of the Members present and voting, except as otherwise provided in these Bylaws, and must be Members of the Friends.

4. The Board shall approve the annual budget and all major policies, and shall appoint (and if need be, discharge) any President, who shall report to the Board through the Chair. The Board may delegate to Officers, the President, or committees made up of members of the Board, such powers not inconsistent with the laws of the Commonwealth of Massachusetts and these Bylaws.

5. The Board may, at any meeting called for the purpose, remove any person serving as a Director or Officer, with or without cause, upon a vote by a majority of the members of the Board then in office.

6. Honorary Directors may be nominated by the Governance Committee and then approved by the Board. They shall then be elected by the Members at the Annual Meeting. Honorary Directors shall be nominated in recognition of distinguished service to the corporation and shall be non-voting Directors.

7. Individual Directors shall normally hold office for a term of three years, but they may be elected for a shorter term upon the Governance Committee's recommendation and with the Board's approval. A shorter term may be chosen for any reason the Board deems advantageous, such as to prevent excessive turnover in any given year.

8. An Individual Director's term shall start at the end of the Annual Meeting at which such Director is elected and shall end at the end of the Annual Meeting of the final year of such Director's term or at the end of any Special Meeting in lieu thereof.

9. Upon completion of two consecutive three-year terms, or service as an Individual Director totaling six years, an Individual Director may not be re-elected for at least one

year. If later re-elected, such Director may serve up to a total of six (6) additional years and then cannot be re-elected for at least one year. There is no limit on the number of additional years such Director may serve, but such Director cannot be re-elected for at least one year between each period of service totaling six (6) years. These term limits are based only on an individual's service as an Individual Director; service as Chair, Vice Chair, Treasurer or Secretary is not counted towards them. If an Individual Director is elected Chair, Vice Chair, Treasurer or Secretary during his or her term, such person ceases to be an Individual Director, but when he or she ceases to serve as such Officer, such person may then be re-elected by the normal elective process as an Individual Director for the remainder of the term, if any, held when elected an Officer and may also be re-elected to a subsequent term or terms as an Individual Director in conformity with this Section.

10. Individual Directors or Officers shall not receive compensation for their services as Directors or Officers but may be reimbursed for reasonable expenses incurred in the performance of their duties. They may resign at any time by giving written notice of such resignation to the Secretary or the Chair, and such resignation shall be effective upon receipt unless specified to be effective at some other date.

11. Any vacancies on the Board occurring during the year may be filled by the Board. Any Individual Director so chosen shall hold office only until the end of the next Annual Meeting, at which time the vacancy shall be filled by the normal elective process. Such partial years shall not count toward term limits. A vacancy shall be deemed to exist if the number of Individual Directors is less than the maximum number allowed by Section 2 of this Article.

12. Written notices of all regular meetings of the Board shall be sent to all Individual Directors and Officers at least fourteen days prior to the meeting by mail or electronic mail.

13. Special meetings of the Board may be held when called by the Chair, or by the Secretary upon the request of any three or more Individual Directors or Officers. Notice of such special meetings shall be given by facsimile transmission, electronic mail or telephone at least five days in advance of such meeting. Such notice shall specify the time, place and purpose or purposes of the special meeting. Such notice shall be deemed to have been given provided all Individual Directors and Officers are present or waive notice thereof by a writing which is filed with the records of the meeting.

14. At all meetings of the Board, the presence of a majority of all the then current Individual Directors and the Officers shall be necessary and sufficient to constitute a quorum for the transaction of business, and the act of a majority of the Individual Directors and the Officers present at a meeting at which there is a quorum shall be the act of the Board, except as may be otherwise specifically provided by statute or by these Bylaws. With approval of the Chair, Individual Directors and the Officers may participate in a meeting of the Board by means of a conference telephone or similar communications equipment through which everyone participating in the meeting can hear each other at the same time. Participation by such means shall constitute presence in person at the meeting. In addition, but only when it is necessary to act urgently and when the Chair authorizes, and after notice of the matter to be decided has been given to all Individual Directors and the Officers at least forty-eight hours in

advance by the means mentioned in Section 13 of this Article, the Board may also act by vote of all of its members made in writing (including by electronic mail), or of a majority of its members voiced in a telephone conference call that has been scheduled at least forty-eight hours in advance.

15. Upon the recommendation of the Governance Committee, the Board may elect ex-officio Directors of the Board for such term, not to exceed one year, as the Board may decide, but in no case for more than one year. Such ex-officio Directors shall be officers or representatives of community organizations, agencies or institutions, as selected by such organizations, if the work of such organizations is related to or impacts the work of the Friends and the presence of such representatives at Board meetings is felt to be productive for the Friends. Such ex-officio Directors shall receive all notices of Board meetings as provided for in these Bylaws and such other materials as may be sent to Board members, but they shall have no governance role. They may not vote on any matter and shall not be counted towards any quorum requirements.

## **ARTICLE VI - OFFICERS**

1. The Officers of the Friends shall be a Chair, one or more Vice Chairs, a Secretary, a Treasurer and such other Officers as the Board may in its discretion appoint. Officers must be Members but need not be Directors at the time of their election. But in accordance with Article V, Section 2 above, any Chair, Vice Chair, Treasurer and Secretary serves as a member of the Board with all the rights and privileges of an Individual Director. Any other Officer shall be a member of the Board only if separately elected as an Individual Director. Any Chair, Vice Chair, Secretary and Treasurer shall be elected annually by the Board at its first meeting following the Annual Meeting or the special meeting in lieu thereof. In the case of the death, resignation, removal or disqualification of any Officer, the Board may elect a successor to serve out the remainder of the Officer's term.

2. Each Officer's term shall begin at the end of the Board meeting at which they are elected and run until the end of the first Board meeting following the next Annual Meeting or the special meeting in lieu thereof.

3. Each Officer shall, subject to these Bylaws, have, in addition to the duties and powers herein set forth, such duties and powers as are commonly incident to their office, and such duties and powers as the Board shall from time to time designate.

4. No Officer shall hold the same office for more than a total of ten (10) years.

5. The Chair shall preside at all meetings of members, of the Board, and of the Executive Committee at which the Chair is present. The Chair shall be an ex-officio, voting member of all committees.

6. The Chair shall, after consulting the President, nominate the chairs, co-chairs and vice chairs of all committees, who shall then be appointed by the Executive Committee. The Chair, after consulting the President and the chair of the committee, shall appoint the members of all committees, with the exception of the Council.

7. In the temporary absence of the Chair, the succession of Officers who shall assume the Chair's responsibilities shall be in the order set forth below. Should the office of Chair become vacant, the first Vice Chair (as determined by the Executive Committee) shall serve as Chair until a Chair is elected at the Board meeting following the next Annual Meeting or until the Board shall elect another individual. If there is a further vacancy in this office, the succession shall be in the order of the other Vice Chairs, if any, the Treasurer, and the Secretary.

8. The Secretary shall be a resident of Massachusetts and is responsible for the issuance of notices of all meetings of the Board, the Executive Committee, and the Members, and shall, when possible, attend and keep a true record of all such meetings. In the absence of the Secretary and the Assistant Secretary, if any, at any such meeting, a temporary Secretary shall be chosen by the Chair who shall record the proceedings of such meeting. If an Assistant Secretary is chosen in accordance with Section 1 above, he or she shall have the power in the absence of the Secretary to give notice of and keep records of meetings of the Members, the Board and the Executive Committee, and perform all other duties of the Secretary. The Secretary shall also be responsible for keeping an accurate and complete record of the current Bylaws and shall oversee the custody of all corporate papers and reports that are ordered to be placed on file, and all documents and letters relating to the official business of the Members, Board and Executive Committee. All these records, or copies thereof, shall be kept on file at the office of the Friends.

9. The Treasurer shall, subject to the direction of the Board and in accordance with the financial policy as it may from time to time be approved by the Board, oversee the management of the financial affairs of the Friends and its investments. The Treasurer shall be responsible for the keeping of accurate and complete financial records of the Friends. With the approval of the Board, the Treasurer, other Officers or the President may be given the authority to withdraw bank deposits, either jointly or singly.

10. The Treasurer shall:

- a) render a report at each Annual Meeting of the financial affairs of the Friends for the preceding fiscal year;
- b) review with the Finance and Executive Committees and the Board periodic reports of receipts and expenditures, in such detail as they may direct;
- c) have authority to sell, transfer, and deliver any securities, mortgages, or other intangible personal property of the Friends; to invest and reinvest the funds of the Friends; to accept unrestricted gifts and bequests paid otherwise than in cash; and to execute any contracts and instruments relating thereto; and
- d) serve as the chair of the Finance Committee and a member of the Investment Committee, which is a sub-committee of the Finance Committee and the chair of which reports to the Treasurer.

11. The Treasurer, with the approval of the Board, may delegate any of his or her duties to the Chair, another Officer, or the President. The Treasurer shall have assistance, including that of such professional advisors and upon such terms, as the Board may authorize on the recommendation of the Finance Committee or the Investment Committee.

12. Any Assistant Treasurer appointed in accordance with Section 1 above shall have such powers as the Board shall from time to time designate, including all powers of the Treasurer if at any time the Treasurer is absent or unable to serve.

### **ARTICLE VII – EXECUTIVE COMMITTEE**

1. There shall be an Executive Committee made up of the Chair, any Vice Chairs, the Treasurer and the Secretary, and such other Directors as the Chair may appoint. The Chair shall be the chair of the Executive Committee and shall call the meetings. Notice of any meeting shall be sent to the members by mail, facsimile transmission, electronic mail or telephone at least five days in advance of the meeting.

2. The Executive Committee shall meet between meetings of the Board as often as the Chair deems necessary. It shall provide general oversight of the Friends between meetings of the Board and carry out such other duties as the Board may delegate to it. The Committee shall have a charter approved by the Board, setting out its responsibilities and such rules and regulations as the Board may approve.

3. At all meetings of the Executive Committee, the presence of a majority of all the then current members of the Committee shall be necessary and sufficient to constitute a quorum for the transaction of business, and the act of a majority of the members of the Committee present at a meeting at which there is a quorum shall be the act of the Committee. Members of the Committee may participate in a meeting by means of a conference telephone or similar communications equipment through which everyone participating in the meeting can hear each other at the same time. Participation by such means shall constitute presence in person at the meeting. In addition, but only when it is necessary to act urgently and when the Chair authorizes, and after notice of the matter to be decided has been given to all Committee members at least forty-eight hours in advance by electronic mail or telephone, the Executive Committee may also act by vote of all of its members made in writing (including by electronic mail), or by a majority vote of all of its members voiced in a telephone conference call that has been scheduled at least forty-eight hours in advance.

### **ARTICLE VIII – OTHER COMMITTEES**

1. The Board may establish such additional committees as it sees fit, having received a recommendation from the Governance Committee, and such committees may be continuing or temporary. Any such additional committee may be terminated at any time by the Board. Any such additional committee shall be advisory only, unless the Board shall make an explicit delegation of its authority to such committee. At a minimum the Board shall establish committees to deal with audit, finance, governance, investment, and the parks.

2. Normally the chair, or a co-chair, or a vice chair, of each such committee shall be a member of the Board. Only persons who are Members of the Friends may be members of such committees. Exceptions may be made by the Chair in the case of public officials or governmental employees. Members of committees may be removed at any time with or without cause by the Executive Committee. The President shall be an ex-officio, non-voting member of all committees.

3. The Board shall have the authority to fix the duties and responsibilities of all committees and each shall act under the supervision of the Board except as otherwise provided in these Bylaws.

4. There shall be an advisory Council to support the work of the Friends and help increase the public's awareness of and appreciation for that work. It shall be made up of retiring or prospective Directors; Friends committee members; community, professional, corporate and foundation leaders; and anyone interested in advancing the mission of the Friends. Its composition, duties and responsibilities and other operating details shall be determined by the Board. Any chair or co-chairs of the Council who are not Directors shall be ex-officio Directors in accordance with Section 15 of Article V.

5. The Finance Committee shall make a recommendation regarding the annual budget to the Executive Committee and the Board and shall provide budgetary oversight as needed throughout the fiscal year.

#### **ARTICLE IX – EXECUTION OF PAPERS**

Except as the Board may generally or in particular cases authorize the execution thereof in some other manner, all deeds, leases, transfers, contracts, bonds, notes, checks, drafts and other obligations made, accepted or endorsed by the Friends shall be signed by the Chair or the Treasurer.

#### **ARTICLE X – INDEMNIFICATION**

The Friends shall, to the extent legally permissible, indemnify each person who may serve or who has served at any time as a Director, Officer, committee member, agent and employee or who at the request of the Friends may serve or at any time has served as a fiduciary (including as a trustee or similar capacity of an employee benefit plan) (hereinafter collectively referred to as "Indemnified Officer"), against all expenses and liabilities, including, without limitation, counsel fees, judgments, fines, excise taxes, penalties, and settlement payments, reasonably incurred by or imposed upon such person in connection with any threatened, pending or completed action, suit or proceeding whether civil, criminal, administrative or investigative (a "proceeding") in which he or she may become involved by reason of his or her serving or having served in such capacity (other than a proceeding voluntarily initiated by such person unless he or she is successful on the merits and the proceeding was authorized by a majority of the full Board or the proceeding seeks a declaratory judgment regarding his or her own conduct); provided that no indemnification shall be provided for any such person with respect to any matter as to which he or she shall have been finally adjudicated in any proceeding not to have acted in good faith in the reasonable belief that his or her action was in the best interests of the Friends (or to the extent such matter relates to his or her service with respect to an employee benefit plan, in the best interest of the participants or beneficiaries of such employee benefit plan); and further provided that any compromise or settlement payment shall be approved by the Friends in the same manner as provided below for the authorization of indemnification, or by a court of competent jurisdiction.

Such indemnification may, to the extent authorized by the Board, include payment by the Friends of expenses incurred in defending a civil or criminal action or proceeding in

advance of the final disposition of such action or proceeding, upon receipt of an undertaking by the person indemnified to repay such payment if he shall be not entitled to indemnification under this article, which undertaking may be accepted without regard to the financial ability of such person to make repayment.

The payment of any indemnification shall be conclusively deemed authorized by the Friends under this Article, and each Director and Officer of the Friends approving such payment shall be wholly protected if:

(i) The payment has been approved or ratified (1) by a majority vote of a quorum of either (a) the Members who are not at that time parties to the proceeding or (b) the Directors who are not at that time parties to the proceeding or (2) by a majority vote of a committee of two or more Directors who are not at that time parties to the proceeding and are selected for this purpose by the full Board (in which selection Directors who are parties may participate); or

(ii) The action is taken in reliance upon the opinion of independent legal counsel (who may be counsel to the Friends) appointed for the purpose by vote of the Directors in the manner specified in clauses (1) or (2) of subparagraph (i) or, if that manner is not possible, appointed by a majority of the full Board then in office; or

(iii) The Directors have otherwise acted in accordance with the standard of conduct applied to Directors under Chapter 180 of the Massachusetts General Laws; or

(iv) A court having jurisdiction shall have approved the payment.

The indemnification provided hereunder shall inure to the benefit of the heirs, executors and administrators of a Director or other Indemnified Officer entitled to indemnification hereunder. The indemnification provided hereunder may, to the extent authorized by the Friends, shall apply to the Directors, Officers and Fiduciaries of any constituent corporations that have merged into or been consolidated with the Friends who would have been entitled to indemnification hereunder had they served in such capacity with or at the request of the Friends.

The right of indemnification under this Article shall be in addition to and not exclusive of all their rights to which any person may be entitled. Nothing contained in this Article shall affect any rights to indemnification to which the Employees, Agents, Directors, and Officers of the Friends and other persons may be entitled by contract or otherwise under law.

This Article, as amended, constitutes a contract between the Friends and the Indemnified Officers. No amendment or repeal of the provisions of this Article which adversely affects the right of an Indemnified Officer under this Article shall apply to him or her with respect to his or her acts or omissions which occurred at any time prior to such amendment or repeal without his or her written consent.

## **ARTICLE XI – PERSONAL LIABILITY**

The Members, Directors, and Officers of the Friends shall not be personally liable for any debt, liability or obligation of the Friends. All persons, corporations or other entities



extending credit to, or contracting with, or having any claim against, the Friends, may look only to the funds and property of the Friends for the payment of any such contract or claim, or for the payment of any debt, damages, judgment or decree, or of any money that may otherwise become due or payable to them from the Friends.

## **ARTICLE XII – AMENDMENTS**

1. These Bylaws may be altered, amended or repealed, in whole or in part, by vote of two-thirds of the Directors then in office, except with respect to any provision thereof which by law, the Articles of Organization, or these Bylaws requires action by the Members. Not later than the time of giving notice of the meeting of Members next following the making, amending or repealing by the Directors of any Bylaws, notice thereof stating the substance of such change shall be given to all Members. The Members may by a two-thirds vote of those in attendance at the meeting alter, amend or repeal any Bylaws adopted by the Directors or otherwise or adopt, alter, amend or repeal any provision which by law, the Articles of Organization or these Bylaws required action by the Members. Any amendment, alteration or repeal of the Bylaws by the Directors as provided for in this Article shall be valid and given full force and effect unless and until acted upon by the Members.

2. No alteration, amendment or repeal of these Bylaws shall authorize or permit the Friends to be operated otherwise than exclusively for such charitable, educational or scientific purposes as qualify it for exemption from taxation under section 501(c) of the Internal Revenue Code of 1954 and as qualify gifts to the Friends as deductible under Section 170 (c) (2) of said Code, each as now in force or hereafter amended.

*Approved by the Board of Directors on June 10, 2014 and December 9, 2014;  
Summary of changes distributed to membership via mail prior to the Annual Meeting on April 8, 2015; Summary of changes distributed to membership via mail prior to the Annual Meeting on April 13, 2016.*