

# WACOSA

## SECOND AMENDED AND RESTATED BYLAWS

### ARTICLE 1 - NAME, PURPOSE

Section 1.1: The name of the organization shall be WACOSA, (hereinafter sometimes the “Corporation”).

Section 1.2: WACOSA is organized and shall be operated exclusively for charitable, religious, educational, and scientific purposes, including for providing individuals with disabilities the opportunity to work and live in their communities; which such purposes shall be exclusively charitable within the meaning of Section 501(c)(3) of the Internal Revenue Code, or corresponding section of any future federal tax code.

### ARTICLE II - MEMBERSHIP

Section 2.1: The members of the Corporation shall consist solely of the Board of Directors.

Section 2.2: Meetings. There shall be no separate meeting of the members. All meetings of the members shall be conducted as meetings of the Board of Directors.

Section 2.3: Acts of Members. Except as otherwise required by law or specified in the Articles of Incorporation, the members shall take action by the affirmative vote of (a) the majority of the voting power present and entitled to vote on that item of business; or (b) in the event of a vote without a meeting, the majority of the voting power that would constitute a quorum for the transaction of business at a duly held meeting of the Board of Directors.

### ARTICLE III - BOARD OF DIRECTORS AND ELECTION

Section 3.1 Control. The control of the affairs of the Corporation shall be vested in the WACOSA Board. In controlling such matters and affairs of WACOSA, the Directors shall discharge their functions in good faith, in a manner the Directors reasonably believe to be in the best interest of WACOSA, and with the care and duty an ordinarily prudent person in a like position would exercise under similar circumstances in accordance with the WACOSA mission statement, purpose and attendant corporate documents.

Section 3.2 Composition and Selection of Board. The Board of WACOSA, shall consist of not less than twelve (12) nor more than twenty-one (21) Directors with voting rights. The initial Board was elected by the organizers and all subsequent Board Members

shall be elected by the Board as follows: During the last quarter of each calendar year, the Board of Directors shall elect Directors to replace those whose terms will expire at the end of the calendar year. This election shall take place during a regular meeting of the Directors or at such special meeting, called in accordance with the provisions of these Bylaws.

Section 3.3 Board role and compensation. The Board is responsible for select governance decisions of the Corporation, including the election of officers and the amendment of Bylaws. The board delegates responsibility for day-to-day operations and decisions to an Executive Director/President and paid staff of employees and contractors as well as to its volunteer officers and committees as described below. The Board receives no compensation other than the reasonable reimbursable expenses necessarily incurred.

Section 3.4 Terms of Office

a. The members of the Board members shall generally serve three-year terms, recognizing that shorter terms may occur from time to time. Board members are eligible to serve multiple terms, up to three full terms. Where possible, terms shall be staggered to provide continuity over time. Following a period of absence from the Board of one year, a person who was a prior Board member and who had completed three successive three-year terms shall once again become eligible to be elected to the Board.

b. Each Director shall serve until the expiration of his or her term and until a successor is duly elected and qualified, or until such Director's earlier death, resignation or removal from office.

Section 3.5 Vacancies. Vacancies in the Board shall be filled by appointment by the members of the entire Board. A person appointed to fill a vacancy shall hold office for the remainder of the term of the Director he or she is replacing, unless such person earlier dies, resigns, or is removed from office.

Section 3.6 Resignation. Any member of the Board may resign at any time by giving written notice to the Board. Such resignation shall take effect upon receipt of the notice or at any later time specified therein or as determined by the Board. Acceptance of such resignation shall not be necessary to make it effective.

Section 3.7 Removal for Cause. The Board shall have the power to remove any Director for cause. Any Director may bring charges against any other Director by filing the charges in writing with the Secretary and requesting the removal of the Director in question at the next regular or special meeting of the Board. The Director against whom such charges have been brought shall be informed in writing of the charges prior to the meeting and shall have an opportunity at the meeting to be heard in person and to present

evidence relating to the charges and the person or persons bringing the charges against the Director shall have the same opportunity. The proposed removal shall be voted on at a regular or special meeting of the Board and any vacancy created by such removal may be filled as a vacancy pursuant to Section 3.5.

Section 3.8 Annual Meeting. The annual meeting of the Board shall be held at such date, time and place as designated by the Board. At such annual meeting the Board shall elect the officers of the Corporation for the ensuing year, and transact such other business as it shall deem appropriate.

Section 3.9 Regular Meetings. In addition to the annual meeting, the Board shall hold regular meetings in such number and at such times and places as designated from time to time by the Board.

Section 3.10 Special Meetings. Special meetings of the Board may be called by the Chairperson or upon the written request of any four (4) Directors, by the Chairperson or Secretary. If the Chairperson or the Secretary shall neglect to issue such call, the members of the Board making the request may issue the call.

Section 3.11 Notice. Notice of the time and place of the annual meeting, regular meetings and special meetings of the Board shall be given to each member of the Board at least five (5) days prior to the meeting. Notice may be given by hand, by nationally recognized overnight courier or confirmed facsimile or email or by mail if deposited therein at least seven (7) days prior to the meeting. The notice for the annual meeting and regular meetings of the Board need not specify the nature of the business to be transacted, unless such meeting is to amend the Bylaws or remove members of the Board of Directors. The notice for a special meeting shall specify the general nature of the business to be transacted. If the date, time and place of a meeting of the Board of Directors has been announced at a previous meeting of the Board of Directors, additional notice is not required.

Section 3.12 Waiver of Notice. Notice of the time, place and purpose of any meeting of the Board of Directors may be waived by any Director in writing either before, at, or after such meeting. Presence at any meeting shall constitute waiver of notice of such meeting unless the Director objects at the beginning of the meeting to the transaction of business because the meeting is not lawfully called or convened and such Director does not participate in the meeting.

Section 3.13 Quorum and Action. At all meetings of the Board and Board Committees, the presence of at least fifty percent of the Directors and/or Committee Members having voting rights shall be necessary to constitute a quorum for the transaction of business. Except as set forth elsewhere in these Bylaws, the acts of a majority of the voting members present at a meeting at which a quorum is present shall be the acts of the Board or Committee, unless the affirmative vote of a greater number is required by the

Minnesota Nonprofit Corporation Act, Chapter 317A, Minnesota Statutes, as amended. Each voting member shall be entitled to one vote. Voting by proxy shall not be permitted. If a quorum is present at the call of a meeting, the Directors or Committee Members may continue to transact business until adjournment, notwithstanding withdrawal of enough Directors and/or Committee Members to leave less than a quorum.

Section 3.14 Presence at Meetings. A member of the Board who, without prior approval, is absent from three (3) consecutive meetings of the Board shall be deemed to have automatically resigned from the Board in accordance with Section 3.6..

Section 3.15 Written Action. Any action which may be taken at a meeting of the members of the Board or the members of any committee of the Board may be taken without a meeting if a consent or consents in writing setting forth the action so taken shall be signed by all of the members of the Board or the members of the committee, as the case may be, and shall be filed with the Secretary of the Corporation.

Section 3.16 Participation by Remote Communication.

- (a) Meetings Held Solely by Means of Remote Communication. Any meeting of the Board or committee may be conducted solely by one or more means of remote communication (including electronic mail or messaging) through which all of the members of the Board or committee may participate with each other during the meeting, if the notice is given of the meeting as required by this Section, and if the number of Board or committee members participating in the meeting is sufficient to constitute a quorum at a meeting. Participation in a meeting by means of remote communication constitutes presence at the meeting.
- (b) Participation in Meetings by Means of Remote Communication. A Board or committee member may participate in a meeting of the Board by means of a conference call or by such other means of remote communication, in each case through which the Board or committee member, other Board or committee members so participating, and all Board or committee members physically present at the meeting may participate with each other during the meeting. Participation in a meeting by means of remote communication constitutes presence at the meeting.

Section 3.17 Executive Director/President. The role of the Executive Director/President of WACOSA shall be as an ex-officio, non-voting member.

Section 3.18 Conflicts of Interest; Code of Conduct. WACOSA shall adhere to a conflict of interest policy, which shall apply to all Directors, officers, committee members and management staff of WACOSA. In addition, WACOSA shall have a Code of Conduct

& Compliance Policy that shall apply to all Directors, officers, committee members, management staff, employees, and contractors of WACOSA

#### **ARTICLE IV – DUTIES OF OFFICERS**

Section 4.1: Officers and Duties. There shall be a minimum of four offices of the Board consisting of a Chair, Vice-Chair, Secretary and Treasurer. Only board members with voting rights may be officers. The officers will be elected for one-year terms. The officers shall be elected by the Board one month prior to the fiscal year-end and assume office the first month of the fiscal year. Vacancies will be filled by the Board of Directors at any time to fill the unfinished term.

Section 4.2: Duties of the Chair. The Chair shall convene regularly scheduled Board meetings, shall preside, or arrange for other members of the executive committee to preside at each meeting in the following order Vice-Chair, Secretary, and Treasurer. The Board Chair shall direct the general governance related matters of the corporation, is authorized to sign contracts and other documents on behalf of WACOSA and shall appoint all committee members.

Section 4.3: Duties of the Vice-Chair. The Vice-Chair will assume the Chair's duties when the Chair is absent; aide the Chair; and otherwise serve as designated by the Board.

Section 4.4: Duties of the Secretary. The Secretary shall, unless otherwise determined by the Board, attend all meetings of the Board, shall record or cause to be recorded all proceedings thereof in a book to be kept for that purpose, and may certify such proceedings. Except as otherwise required or permitted by law or by these Bylaws, the Secretary shall give or cause to be given notice of all meetings of the Board.

Section 4.5: Duties of the Treasurer. The Treasurer shall, unless otherwise determined by the Board, attend all meetings of the Board. The Treasurer shall also chair the finance committee, assist in the preparation of the budget, and help develop fundraising plans. The Treasurer shall also make a report on the financial condition of the Corporation at each Board or officer meeting and make financial information available to Board members and the public.

Section 4.6: Executive Director/President. The Executive Director/President of the Corporation shall (a) have general active management of the business of the Corporation; (b) see that orders and resolutions of the Board of Directors are carried into effect; (c) sign, and deliver, in the name of the Corporation, deeds, mortgages, bonds, contracts, or other instruments pertaining to the business of the Corporation, except in cases in which the authority to sign and deliver is required by law to be exercised by another person or is expressly delegated by the Articles of Incorporation, the Bylaws or the Board of Directors to another person; (d) serve as an ex-officio nonvoting member of the Board of Directors of

the Corporation as provided in Section 3.3 of these Bylaws; and (e) perform such other duties as are prescribed by the Board of Directors.

## **ARTICLE V - COMMITTEES**

Section 5.1: Committee formation; Meetings. The Board may create committees as needed. The Board Chair may appoint committee Chairs, from amongst the Directors, after consultation with the Board. The meetings of the committees shall generally be scheduled and held quarterly or on a more or less frequent basis as determined by the Board and/or the committee chair.

Section 5.2: Executive Committee. The Board Chair, Vice Chair, Treasurer, Secretary, and at least two additional Directors appointed by the Board Chair shall constitute the Executive Committee. Except for the power to amend the articles of incorporation and bylaws, the Executive Committee shall have all the powers and authority of the Board of Directors in the intervals between meetings of the Board of Directors, and shall otherwise be subject to the direction and control of the full Board.

Section 5.3: Finance Committee. The Treasurer and up to four additional Directors appointed by the Board Chair shall constitute the Finance Committee. The Finance Committee shall develop and review fiscal procedures and oversee the preparation of an annual budget with officers and other Board members. The Board must approve an annual budget. Any major change in the budget must be approved by the Board or the Executive Committee.

Section 5.4: Additional Committees. Additional committees shall also include a Program Committee, Human Resources, Compensation and Benefits Committee, a Marketing, Communications and Advocacy Committee, and a Development Committee to assist the Corporation in performing its work.

Section 5.5: Committee Members. Members of the committees may be member of the Board or, when deemed to be appropriate and/or helpful to the Corporation, community representatives who have special connections or expertise in the areas to be covered by the committees.

Section 5.6: Personnel and Hiring Policy. The Board as a whole is responsible for hiring the Executive Director/President. The Executive Director/President is responsible for hiring and supervising other staff. The Executive Committee shall operate as a grievance committee, and is responsible for developing a personnel policy.

## **ARTICLE VI - AMENDMENTS**

Section 6.1: These Bylaws may be amended when necessary by a two-thirds majority of the Board of Directors. Proposed amendments must be submitted to the Secretary to be sent out with regular Board announcements.

## **ARTICLE VII - INDEMNIFICATION**

Section 7.1 Indemnification. The Corporation, shall indemnify the Corporation's directors, officers, committee members, and employees against such expenses and liabilities, in such manner, under such circumstances, and to such extent, as required or permitted by Minnesota Statutes, Section 317A.521, subd. 2, as amended from time to time, or as required by other provisions of law; provided, however, that no indemnification shall be made with respect to any claim, issue or matter as to which the person shall be adjudged to be liable to this Corporation.

Section 7.2 Advances. The Corporation, shall advance expenses in such manner, under such circumstances, and to such extent, as required or permitted by Minnesota Statutes, Section 317A.521, subd. 3, as amended from time to time; provided, however, that the Corporation shall not advance expenses incurred in defense of a claim brought by or in the right of this Corporation. The provisions of this section are not intended to limit the ability of a person to receive advances as an insured under an insurance policy maintained by Corporation.

Section 7.3 Insurance. The Corporation, may purchase and maintain insurance on behalf of any person who is or was a director, officer, committee member, or employee against any liability asserted against and incurred by such person in or arising from such capacity, whether or not this Corporation would otherwise be required to indemnify the person against the liability.

## **ARTICLE VIII – CONFLICT OF INTEREST**

Section 8.1: Attached to these Bylaws as Appendix A is the Conflict of Interest policy of WACOSA.

## **ARTICLE IX - MISCELLANEOUS**

Section 9.1 Fiscal Year. Unless otherwise fixed by the Board of Directors, the fiscal year of this Corporation shall begin on January 1 and end on the succeeding December 31.

Section 9.2 Corporate Seal. This Corporation shall have no seal.

Section 9.3 Authority to Borrow, Encumber Assets. No director, officer, agent or employee of this Corporation shall have any power or authority to borrow money on its

behalf, to pledge its credit or to mortgage or pledge its real or personal property except within the scope and to the extent of the authority delegated by resolutions adopted from time to time by the Board of Directors. Authority may be given by the Board of Directors for any of the above purposes and may be general or limited to specific instances; provided, however, that if the authority given by the Board of Directors for any of the above purposes is general, then such authority shall be given only upon at least a two-thirds (2/3) vote of the Board of Directors.

Section 9.4 Execution of Instruments. All deeds, mortgages, bonds, checks, contracts and other instruments pertaining to the business and affairs of this Corporation shall be signed on behalf of this Corporation by the Chair, the Executive Director/President or by such other person or persons as the Board may designate from time to time.

Section 9.6 Deposit of Funds. All funds of this Corporation shall be deposited from time to time to the credit of this Corporation in such banks, trust companies or other depositories as the Board of Directors may approve or designate, and all such funds shall be withdrawn only in the manner or manners authorized by the Board of Directors from time to time.

### **CERTIFICATION**

As Secretary of the Corporation, I hereby certify that the foregoing Second Amended and Restated Bylaws are the complete Bylaws of the corporation, as adopted by the Board of Directors on the 24<sup>th</sup> day of August, 2020.

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Ron Brandenburg, Secretary



## **Appendix A Conflict of Interest Policy**

Rev. 01-20

### **Conflicts of Interest & Disclosure of Certain Interests**

This conflict of interest policy is designed to help directors, officers and employees of WACOSA identify situations that present potential conflicts of interest and to provide WACOSA with a procedure which, if observed, will allow a transaction to be treated as valid and binding even though a director, officer or employee has or may have a conflict of interest with respect to the transaction. The policy is intended to comply with the procedure prescribed in Minnesota Statutes Section 317A.255 governing conflicts of interest for Directors of Nonprofit corporations. In the event there is an inconsistency between the requirements and procedures prescribed herein and those in section 317A.255, the statute shall control.

1. Definitions.

- a. A "Conflict of Interest" is any circumstance described in Part 2 of this Policy.
- b. A "Responsible Person" is any person serving as an officer, employee, or member of the Board of Directors of WACOSA.
- c. A "Family Member" is a spouse, domestic partner, parent, child or spouse of a child, brother, sister, or spouse of a brother or sister, of a Responsible Person.
- d. A "Material Financial Interest" in an entity is a financial interest of any kind, which, in view of all the circumstances, is substantial enough that it would, or reasonably could, affect a Responsible Person's or Family Member's judgment with respect to transactions to which the entity is a party. This includes all forms of compensation.
- e. A "Contract or Transaction" is any agreement or relationship involving the sale or purchase of goods, services, or rights of any kind, the providing or receipt of a loan or grant, the establishment of any other type of pecuniary relationship, or review of a charitable organization by WACOSA. The making of a gift to WACOSA is not a Contract or Transaction.

2. Conflict of Interest Defined. For purposes of this policy, the following circumstances shall be deemed to create Conflicts of Interest:

a. Outside Interests.

- i. A Contract or Transaction between WACOSA and a Responsible Person or Family Member.
- ii. A Contract or Transaction between WACOSA and an entity in which a Responsible Person or Family Member has a Material Financial Interest or of which such person is a director, officer, agent, partner, associate, trustee, personal representative, receiver, guardian, custodian, conservator or other legal representative.

b. Outside Activities.

- i. A Responsible Person competing with WACOSA in the rendering of services or in any other Contract or Transaction with a third party.

- ii. Responsible Person's having a Material Financial Interest in; or serving as a director, officer, employee, agent, partner, associate, trustee, personal representative, receiver, guardian, custodian, conservator or other legal representative of, or consultant to; an entity or individual that competes with WACOSA in the provision of services or in any other Contract or Transaction with a third party.
- c. Gifts, Gratuities and Entertainment. A Responsible Person accepting gifts, entertainment or other favors from any individual or entity that:
  - i. Does or is seeking to do business with, or is a competitor of WACOSA; or
  - ii. Has received, is receiving or is seeking to receive a loan or grant, or to secure other financial commitments from WACOSA;
  - iii. Is a charitable organization operating in Minnesota;
  - iv. Under circumstances where it might be inferred that such action was intended to influence or possibly would influence the Responsible Person in the performance of his or her duties. This does not preclude the acceptance of items of nominal or insignificant value or entertainment of nominal or insignificant value which are not related to any particular transaction or activity of WACOSA.

### 3. Procedures.

- a. Prior to Board or Committee action on a Contract or Transaction involving a Conflict of Interest, a Director or Committee member having a Conflict of Interest and who is in attendance at the meeting shall disclose all facts material to the Conflict of Interest. Such disclosure shall be reflected in the minutes of the meeting.
- b. A Director or committee member who plans not to attend a meeting at which he or she has reason to believe that the board or committee will act on a matter in which the person has a Conflict of Interest shall disclose to the Chair/President of the meeting all facts material to the Conflict of Interest. The Chair/President shall report the disclosure at the meeting and the disclosure shall be reflected in the minutes of the meeting.
- c. A person who has a Conflict of Interest shall not participate in or be permitted to hear the Board's or Committee's discussion of the matter except to disclose material facts and to respond to questions. Such person shall not attempt to exert his or her personal influence with respect to the matter, either at or outside the meeting.
- d. A person who has a Conflict of Interest with respect to a Contract or Transaction that will be voted on at a meeting shall not be counted in determining the presence of a quorum for purposes of the vote. The person having a conflict of interest may not vote on the Contract or Transaction and shall not be present in the meeting room when the vote is taken, unless the vote is by secret ballot. Such person's ineligibility to vote shall be reflected in the minutes of the meeting. For purposes of this paragraph, a member of the Board of Directors of WACOSA has a Conflict of Interest when he or she stands for election as an officer or for re-election as a member of the Board of Directors.
- e. Responsible Persons who are not members of the Board of Directors of WACOSA, or who have a Conflict of Interest with respect to a Contract or Transaction that is not the subject of Board or committee action, shall disclose to

the Chair/President or the Chair/President's designee any Conflict of Interest that such Responsible Person has with respect to a Contract or Transaction. Such disclosure shall be made as soon as the Conflict of Interest is known to the Responsible Person. The Responsible Person shall refrain from any action that may affect WACOSA's participation in such Contract or Transaction. In the event it is not entirely clear that a Conflict of Interest exists, the individual with the potential conflict shall disclose the circumstances to the Chair/President or the Chair/President's designee, who shall determine whether there exists a Conflict of Interest that is subject to this Policy.

4. Confidentiality. Each Responsible Person shall exercise care not to disclose confidential information acquired in connection with such status or information the disclosure of which might be adverse to the interests of WACOSA. Furthermore, a Responsible Person shall not disclose or use information relating to the business of WACOSA for the personal profit or advantage of the Responsible Person or a Family Member.
5. Review of policy.
  - a. Each new Responsible Person shall be required to review a copy of this Policy and to acknowledge in writing that he or she has done so.
  - b. Each Responsible Person shall *annually* complete a disclosure form identifying any relationships, positions or circumstances in which the Responsible Person is involved that he or she believes could contribute to a Conflict of Interest arising. Such relationships, positions or circumstances might include service as a Director of or consultant to a nonprofit organization, or ownership of a business that might provide goods or services to WACOSA. Any such information regarding business interests of a Responsible Person or a Family Member shall be treated as confidential and shall generally be made available only to the Chair/President, the Executive Director, and any committee appointed to address Conflicts of Interest, except to the extent additional disclosure is necessary in connection with the implementation of this Policy.
  - c. This Policy shall be reviewed *annually* by each member of the Board of Directors. Any changes to the Policy shall be communicated immediately to all Responsible Persons.

*WACOSA reserves the right to amend, modify, remove, suspend, terminate, or change this policy in whole or in part at any time with or without notice.*