

10-8-02

BYLAWS OF WILLIAMSBURG AREA BOTANICAL GARDEN, INC.

ARTICLE I—MEMBERS

A. Qualification. Any person who supports the purposes of the corporation, may, upon application and payment of annual dues of ~~\$25.00~~ for each calendar year, become a member of the corporation. The tendering of such amount in response to a solicitation of membership shall, unless otherwise indicated, be considered an application for membership or renewal of membership. The Secretary of the corporation shall maintain the official list of members.

B. Rights and Privileges. Members shall not have a right to vote, but shall be entitled to attendance at, or admission to, events and facilities sponsored by or owned by the corporation for its members, and for which the corporation may charge a reasonable fee. Members are eligible for appointment to advisory committees of the corporation and may be invited to participate as volunteers in furthering the mission of the corporation. As persons interested in the corporation, members will be periodically advised of significant events, actions and developments affecting or undertaken by the corporation.

C. Annual Meeting. An annual meeting of the members shall be held in October of each year, or at such other time as may be specified by the Executive Committee or the Board of Directors, for the purpose of receiving an annual report regarding the work of the corporation.

ARTICLE II—BOARD OF DIRECTORS

A. General Powers. The business and affairs of the corporation shall be managed by the Board of Directors (hereinafter sometimes referred to as the "Board"), which may exercise as it

deems proper all powers conferred law and not inconsistent with the By-Laws and Articles of Incorporation.

B. Number, Tenure and Qualification.- The Board of Directors at the first annual meeting shall by resolution determine the size of the Board in accordance with the Articles of Incorporation, and may from time to time change the size of the Board within the parameters, if any, fixed in the Articles of Incorporation. Directors shall be divided into three classes, as provided in the Articles of Incorporation, to be known as Class A, Class B and Class C Directors, with the composition of each class as nearly equal in number as reasonably possible, and with the assignment to classes occurring at time of election.. Subsequent to the initial terms of the initial directors as set forth in the Articles of Incorporation, the classes of directors shall serve staggered terms of three years. Newly elected and reelected directors shall serve terms beginning immediately following the meeting at which elected and ending at the end of the annual meeting which ends the term applicable to the class to which they were assigned at time of election. Directors are expected to be or become, and to remain members of the corporation through timely payment of annual dues. Directors may be elected to succeed themselves, serving a maximum of two successive three-year terms and any lesser prior term, (whether an initial term of less than three years or a vacancy of less than three years. After a year off the Board, a person shall become eligible for election to the Board.

C. Removal and vacancies-The Board, by majority vote, may remove a director at any time with or without cause. Any vacancy occurring in the Board, whether by death, resignation, removal, or change in authorized number, shall be filled by the directors remaining in office at any regular or special meeting of the Board.

D. Meetings. An annual meeting of the Board of Directors shall take place in October of each year at a time and place designated by resolution of the Board or by the Chairperson with the approval of the Executive Committee. The Board or the Executive Committee may by resolution schedule other regular meetings of the Board to occur at such intervals, monthly, quarterly or otherwise, at such times and places as may be deemed proper. Special meetings may be called by the Chairperson or upon request of any three Directors. Notice of special meetings shall be given at least three days in advance of the meeting, and may be given by letter, telephone, email or other means.

E. Quorum and Manner of Acting –A majority of the directors then in office immediately before a meeting occurs shall constitute a quorum for the transaction of business. If less than a quorum is present at a scheduled meeting, a majority of the directors present may adjourn the meeting from time to time without further notice in order to facilitate the assembling of a quorum.. If a quorum is present, no action of the Board shall be invalid because of any irregularity in the notice or call of the meeting. When a quorum is present any action approved by a majority of the directors shall be the act of the Board of Directors, unless a greater number is required by law or these By-Laws. Action of the Board taken without a meeting of the directors shall be by resolution or memorandum signed by all members of the Board.

F. Honorary Members.

1. In recognition of her service and contribution, Janice Wagner, Founding President of the WABG, is designated an Honorary Member of the Board.
2. The Board may, by unanimous vote of those present, designate other persons as Honorary Members of the Board.

3. Honorary Members of the Board have an ongoing invitation to attend meetings of the Board. Unless otherwise duly elected and serving as Class A, Class B or Class C members of the Board, Honorary Members shall not vote, and their presence or absence shall be disregarded in determining the presence of a quorum.

ARTICLE III—OFFICERS

A. The corporation and board shall have the following officers:

1. Chairperson
2. First Vice-Chairperson
3. Second Vice-Chairperson
4. Secretary
5. Treasurer

B. Election and terms of office. The officers above specified shall be elected from within the membership of the Board to serve two-year terms or until the respective successor is elected unless, at time of election, some other term is specified. Such officers serve at the pleasure of the Board and may be removed from office with or without cause. One person may be elected to serve in more than one office.

C. Other officers. The Board may appoint other officers, including a president, executive secretary or other executive and lesser officers, at it may deem appropriate. Such officers need not be members of the Board.

D. Duties.

1. Chairperson. The Chairperson shall be the principal executive ^{officer} offer of the

corporation and, subject to the control of the Board, shall, in general, supervise and oversee the business and affairs of the corporation and the execution of actions of, and policies adopted by, the Board. The Chairperson may sign, with the Secretary or other proper officer so authorized by the Board, any deeds, mortgages, bonds, contracts or other instruments which the Board has authorized to be executed and shall perform such other duties as may be prescribed from time to time by the Board.

2. First Vice-Chairperson. The First Vice-Person shall serve as Chairperson whenever the Chairperson is unavailable and shall assist the Chairperson and the corporation by performing such further duties as the Executive Committee or Chairperson may assign.

3. Second Vice-Chairperson. The Second Vice-Chairperson shall serve in the capacity of Chairperson when the Chairperson and First Vice-Chairperson are unavailable, and shall assist the Chairperson, First-Chairperson and the corporation by performing such further duties as either or as the Executive Committee may assign.

4. Secretary. The Secretary shall keep, or cause to be kept, the minutes of meetings of the Board and Executive Committee; give, or cause to be given all notices of meetings required by the By-Laws or by law; serve as custodian of the corporate records and seal of the corporation; and perform such other duties as may be assigned by the Board.

5. Treasurer. The Treasurer shall have charge and custody of and be responsible for all funds and securities of the corporation; receive and give receipts for monies due and payable to the corporation from any source whatever and deposit such monies in depositories designated by the Board; see to the disbursement funds as authorized by the Board; in general, perform all duties incident to the office of Treasurer and such other duties as from time to time

may be assigned by the Board.

6. Other officers. Other officers shall perform such duties as may be assigned by the Board or the individual to whom such officers report.

ARTICLE IV—COMMITTEES

A. Executive Committee. The Board may appoint an Executive Committee to consist of the officers specified in paragraph IIIA, above and two or more other members of the Board. To the extent permitted by Section 13.1-869 of the Code of Virginia, the Executive Committee shall have and may exercise the authority of the Board whenever the Board is not in session.

B. Other Committees of the Board. The Board may, subject to the limitations of such foregoing section, create and appoint two or more members of the Board to other Committees of the Board and may empower such Committees to act on behalf of the Board within areas of jurisdiction assigned to the respective Committees whenever the Board is not in session.

C. Advisory Committees. The Board may create such advisory committees as it deems appropriate to assist in enlarging and developing the membership, improving communications, designing programs, promoting fund-raising and development of resources, identifying sites appropriate to the mission of the corporation, encouraging the cooperation and support of local government and other public agencies in advancing the mission of the corporation and, providing advice and information otherwise deemed helpful to the corporation. Unless otherwise proscribed by resolution of the Board or Executive Committee, the Chair of each committee shall be appointed by the Executive Committee who may appoint members of the corporation, who may, but need not be members of the Board, to such committees. Such committees, and the members thereof, shall serve at the pleasure of the Board.

ARTICLE V—CONTRACTS, LOANS, CHECKS AND DEPOSITS

A. Contracts. The Board may authorize 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.

B. The Board may authorize to Chairperson to borrow funds on behalf of the corporation.

C. Checks, Drafts, Etc. All checks, drafts or other orders for the expenditure of monies or other payment of debts and obligations of the corporation shall be signed by the Chairperson (or a Vice-Chairperson if the other is not available to act) or Treasurer, and, if the amount is more than \$100.00, by both such officers, or, if authorized by resolution of the Board, such other agent or agents named in such resolution.

ARTICLE VI—FISCAL YEAR

The fiscal year of the corporation shall be the calendar year.

ARTICLE VII—INDEMNIFICATION

A. The Corporation shall indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative (including an action or suit by or in the right of the Corporation to procure a judgment in it favor) by reason of the fact that ^{he/she} ~~he~~ is or was director or officer of the Corporation, or is or was serving at the request of the Corporation as a director or officer of another corporation, partnership, joint venture, trust or other enterprise, against judgments, fines, amounts paid in settlement, and expenses (including attorneys' fees) actually and reasonably incurred by him in connection with such action, suit or proceeding if he acted in good

faith and in the manner he reasonably believed to be in and not opposed to the best interests of the Corporation. The termination of any action, suit or proceeding by judgment, order or settlement shall not of itself create a presumption that the person did not act in good faith and in the manner he reasonably believed to be in and not opposed to the best interests of the Corporation.

B. Notwithstanding the provision of subsection A. of the Article VII, no indemnification shall be made in violation of any provision of the Internal Revenue Code or in an action or suit by or in the right of the Corporation to procure a judgment in its favor in respect of any claim issue or matter as to which such person shall have been finally adjudged to be liable for gross negligence or willful misconduct in the performance of his duty to the Corporation, unless and only to the extent that the court in which such action or suit was brought shall determine upon application that, despite the adjudication of liability but in view of all circumstances of the case, such person is fairly and reasonably entitled to indemnification.

C. To the extent that any such person has been successful on the merits or otherwise in defense of any action, suit or proceeding referred to in subsections A and B of the Article, or in defense of any claim, issue or matter therein, he shall be indemnified against expenses (including attorneys' fees) actually and reasonably incurred by him in connection therewith.

D. Any indemnification under subsections A and B of the Article (unless ordered by court) shall be made by the Corporation only as authorized in the specific case, upon a determination that such person is proper in the circumstances because he has met the applicable standard of conduct set forth in such subsection A and B. Such determination shall be made either 1. by the Board of Directors by a majority vote of a quorum consisting of Directors who were not parties to such action, suit or proceeding, or 2. if such a quorum is not obtainable, or

even if obtainable a quorum of disinterested Directors so directs, by independent legal counsel in a written opinion. If the determination is to be made by the Board of Directors, it may rely, as to all questions of law on the advice of independent counsel.

E. Expenses incurred in defending an action, suit or proceeding, whether civil, administrative or investigative, may be paid by the Corporation in advance of the final disposition of such action, suit or proceeding as authorized in the manner provided in subsection D of the Article, upon receipt of an undertaking by or on behalf of such person to repay such amount unless it shall ultimately be determined that he is entitled to be indemnified by the Corporation as authorized in this Article.

F. Every reference herein to Directors or officers shall include former Directors or officers and their respective heirs, executors and administrators. The right of indemnification hereby provided shall not be exclusive of any other rights to which any Director or officer may be entitled, including any right under policies of insurance that may be purchased and maintained by the Corporation or others, with respect to claims, issues or matters in relation to which the Corporation would not have the power to indemnify such Director or officer under the provisions of this Article.

ARTICLE VIII-AMENDMENTS

These By-Laws may be altered, amended or repealed and new By-Laws may be adopted by a two-thirds vote of the Board of directors at any annual or regular meeting, or at any special meeting where prior notice of the proposed amendment has been given.