

FRESNO ARTS COUNCIL

BYLAWS

ARTICLE I – NAME

The legal name of the corporation shall be the FRESNO ARTS COUNCIL, hereinafter referred to as the “Council.” The corporation may also undertake an annual solicitation for funds under such other names as the Board of Directors may from time to time determine, and donations to this entity shall be considered as contributions to the corporation.

ARTICLE II – PRINCIPAL OFFICE

The principal and registered office of the Council shall be in Fresno County, California, located at 1245 Van Ness Avenue. The Board of Directors may at any time or from time to time change the location of the principal office from one location to another in this County.

ARTICLE III – PURPOSE

The general purpose of the Council shall be to sponsor and promote both existing and new arts and cultural activities in Fresno County. The Council may sponsor cooperative planning, research, fundraising and public education programs; administer property; advocate for public support of the arts within the limits of nonprofit law; and undertake such other services and programs deemed necessary to encourage participation in and appreciation of the arts, science and local history by all citizens of the area.

The specific purpose of the corporation is to: act as an “umbrella” unit for arts organizations in matters pertaining to education and community awareness; coordinate and disseminate information concerning all the arts; represent the position of the arts as effectively united; sponsor and encourage cultural, educational, and creative activities. The corporation may sponsor research, fundraising, and public educational programs; administer property and undertake other services and programs that would encourage participation and appreciation of the arts by all residents of Central California.

ARTICLE IV – VOTING MEMBERSHIP

The Council shall be governed by a Board of Directors, hereinafter referred to as the “Board”. As provided in California Corporations Code, Section 5310, this corporation shall have no members. Any action which would otherwise require approval by a majority of all members or approval by the members shall require only approval of the Board, any provision of these Bylaws to the contrary notwithstanding. All references to members shall be deemed a reference to the directors as the only members.

Persons who contribute to the corporation may be referred to as non-voting members by virtue of their relationship with the corporation. No such reference shall be deemed to confer any membership rights, or any voting rights on any such person.

ARTICLE V – COUNCIL BOARD OF DIRECTORS

Section 1: Number and Election

The Board shall consist of not less than five (5) members, nor more than fifteen (15) members, elected by a majority of the Board from a slate presented to it by the Council Board Development Committee. The exact number of directors within the range provided in this section shall be fixed and may from time to time be changed by a resolution adopted by the Board; the directors shall constitute the members of the corporation as set forth in California Corporations Code, Section 5310.

Board members shall be knowledgeable of, and interested in, one or more of the Council's areas of interest: architecture, art education, dance, music, history, theater, literature or visual arts, natural sciences, the business and agricultural community, individual artists, arts organizations, and multicultural organizations. Members of the Board shall, to the greatest extent possible, represent the geographic, ethnic and cultural diversity of Fresno County and represent a broad range of artistic disciplines and quality of life groups.

Section 2: Board Nominating and election Procedures

The Council President may appoint a Board Development committee to select qualified candidates for election to the Board of Directors. The Committee, if so appointed, shall submit its slate of candidates for the Board to the membership at least thirty (30) days prior to the annual meeting. Additional nominations may be taken from any director at that meeting. The Board members will vote on the slate at the annual meeting. Candidates receiving a majority of Board votes will be placed in the vacancies in order of the votes they receive. No proxy votes will be allowed. Cumulative voting shall not be permitted. Those so elected to a Board seat will take office at the first meeting for the new fiscal year. Absent the appointment of a Board Development committee, board nominations may be submitted by any Board member or the Executive Director for consideration by the Board during the fiscal year; nominees accepted by the Board shall take office at the first meeting following their acceptance.

When vacancies occur on the Board during the period between elections, it is the responsibility of the Board Development Committee to recommend a suitable candidate(s) for election by the Board to fill the vacancy. The Committee must recommend such candidates at least 30 days prior to the next Board meeting. Candidates elected to fill vacancies must be elected by a majority of Board members voting at a meeting where quorum is present. No proxy votes will be allowed.

Two (2) representatives to the Board may be appointed by the County Board of Supervisors and one representative may be appointed by the City of Fresno. They will serve a three-year term and have all rights of board members, including voting. ~~Appointments are subject to approval by the majority of the total Board.~~

The Board may from time to time confer honorary Board membership on individuals in recognition of their contribution to the arts or their position of support for the arts. Such honorary membership will be non-voting and will not be counted in addressing issues requiring a quorum.

Section 3: Term of Office

Members of the Board shall serve for terms of three (3) years, not to exceed two (2) consecutive terms or a total of six (6) years. Exceptions may be made to extend an individual member for an additional term by a majority vote of the Board. Approximately one-third (1/3) of the members shall be elected each year. Vacancies on the Board shall be filled in the same manner as directors are selected.

Section 4: Removal from Office

A Member of the Board may be removed from the Board by a two-thirds (2/3) vote of the constituted members of the Board for any of the following reasons. Such action may be taken only after a minimum fifteen (15) days' notice to the member in writing and the member will be given the opportunity to be heard by the Board not less than five (5) days before the effective date of removal. The causes for removal are:

1. Three (3) unexcused absences within a year from regularly scheduled meetings.
2. Conduct deemed not ethical or in conflict with the interests and mission of the corporation.
3. Chronic lack of participation and inadequate support for the work of the Board.

Section 5: Powers

The Board shall have the control and management of the affairs, business and property of the corporation. It may from time to time establish a committee, enter into contractual arrangements, or employ staff to carry out such tasks necessary to carry on the business of the corporation, provided that those tasks are not restricted to the Board by these Bylaws or the laws of the State of California.

The Board may authorize any officer or officers, agent or agents, to enter into any contract or execute and deliver any instrument on behalf of the corporation. Such authority may be general or confined to specific instances, in which case it must specify the terms, conditions and duration of the authority.

Section 6: Compensation; Restriction on Interested Persons

No member of the Board shall receive any compensation for duties related to the Board membership from this corporation, except for travel or reimbursable expenses for participating in activities approved by the Board.

Not more than Forty-Nine Percent (49%) of the persons serving on the Board may be interested persons. As used in this section, an “interested person” means either:

1. Any person currently being compensated by the corporation for services rendered to it within the previous Twelve (12) months, whether as a full-time or part-time employee, independent contractor, or otherwise excluding any reasonable compensation paid to a director as director; or
2. Any brother, sister, ancestor, descendant, spouse, brother-in-law, sister-in-law, son-in-law, daughter-in-law, mother-in-law, or father-in-law of such person.
3. The provisions of this section shall not affect the validity or enforceability of any transaction entered into by this corporation.

Section 7: Annual dues or contributions

The Board will establish the amount of annual dues for membership at its first meeting of the fiscal year and assess each Board member that fee. Dues shall be payable by the first meeting of the fiscal year. **In addition, Board members will be encouraged to solicit and raise funds for the organization. An annual goal for Board fundraising will also be set by the Board at its first meeting of the fiscal year.**

Section 8: Meetings and Voting

The Board shall at its first meeting of the fiscal year set and schedule a minimum of four (4) regular meetings during the year. The Board will also designate an annual meeting to elect new Board members and officers, to accept reports on the activities of the prior year, and to approve a program and budget for the succeeding year.

In addition, the Board may have special meetings at any time upon call of the president or any three (3) Directors. The notice of special meeting shall state the time of the meeting, the purpose, and the place, if the place is other than the Council’s principal office. Business transacted at any special meeting shall be confined to the subjects stated in the meeting notice. Notice of all special unscheduled meetings must be delivered to each Board member in person, by phone, or by first class mail at least five (5) days prior to the meeting.

At all meeting of the Board, business shall be transacted by a majority vote of all Directors present, and any action shall be deemed the action of the full Board. The quorum required to transact business will consist of fifty percent (50%) plus one (1) of the Directors, except where otherwise specified in theses Bylaws.

Section 9: Meeting Participation by Telephone, Videoconference, or Other Means

Any meeting of the Board, regular or special, may be held by conference telephone, videoconference, or similar communication equipment, so long as all Directors participating in the meeting can hear one another, and each Director is provided the means of participating in all matters before the Board including the capacity to propose, or to interpose an objection, to a specific action to be taken by the Council. All such Directors who participate in an otherwise in-person Board meeting through telephone, videoconference, or other similar means, shall be deemed to be present in person at such meeting.

Section 10: Action without Meeting

Any action required or permitted to be taken by the Board may be taken without a meeting, if all Members of the Board, individually or collectively, consent in writing to that action. Such action by written consent shall have the same force and effect as a unanimous vote of the Board. Such written consent or consents shall be filed with the minutes of the proceedings of the Board.

Section 11: Indemnification

The members of the Board shall not be held personally liable for the obligations of the Council and shall not be liable in damages to the Council for injury which may result from the fulfillment of their official duties when they discharge the duties of their position in good faith and with due diligence, care and skill which ordinarily prudent persons would exercise under similar circumstances in like positions.

Section 12: Disciplinary Action

A Director who is guilty of a criminal offense or gross misconduct, either as a Director or as a citizen, or who violates any of the provisions of the Articles of Incorporation of this corporation or these Bylaws, or any principles of professional conduct adopted by this corporation, or who acts contrary to or in violation of any contracts, agreements, or statements of principle of this corporation, shall be liable to censure, suspension, or expulsion. The procedure to be followed by this corporation with respect to censure, suspension, or expulsion of a Director shall be the procedure now or hereafter adopted by the Board, said procedure being in compliance with California Non-Profit Corporations Code, Section 5341.

ARTICLE VI – OFFICERS

Section 1: Number and Election

The Corporation shall have four (4) officers, which shall be President, Vice President, Secretary, and Treasurer. No individual may hold more than one (1) office, Secretary and Treasurer excluded. The Board may establish at any time the organizational structure it feels appropriate to the goals and purposes of the Council.

Section 2: Nominating Procedures and Election

Officers shall be selected by and from the membership of the Board of Directors. They shall take office at the next regular meeting of the Board of Directors following the commencement of the fiscal year. The nominating committee shall present a slate of nominees for offices at the last meeting of the fiscal year and nominations may be proposed by any director at that meeting. Officers shall be elected by the majority of voting members present.

Section 3: Terms of Office

The officers shall serve a term of one (1) year or until their successors are duly elected, and they may be re-elected to the position annually as long as their Board membership term allows. Any vacancy in office during a term shall be filled in the same manner as officers are elected. The new officer will serve the remainder of the current term.

Section 4: Duties

- a. The president shall call and preside at all the meetings of Directors. The President shall be an ex-officio member of all committee. The President may delegate ministerial duties consonant with responsibilities to the Executive Director.
- b. The Vice President shall act as President in the absence of the President and, when so acting, shall have all the power and authority of the President.
- c. The Secretary shall cause all records and reports to be retained in a safe place and shall be responsible for adequate record keeping and reporting of all transactions (except financial). The Secretary shall be responsible for keeping a minute book. The Secretary shall also maintain a roster of all director members, supporting members, honorary members and individuals on professional advisory committees. The Secretary may delegate ministerial duties consonant with responsibilities to the Executive Director.
- d. The Treasurer shall cause all funds to be kept and utilized in a responsible manner. The Treasurer shall cause periodic and annual financial reports to be prepared for the Board of Directors. Acting with the Executive Director, the Treasurer shall see that a true and accurate accounting of all financial transactions is made and kept. The Treasurer may delegate ministerial duties consistent with his/her responsibilities to the Executive Director.

Section 5: Executive Director

The Board shall have the power to engage an Executive Director for the conduct of the business of the corporations. The specific duties and compensation of the Executive Director shall be established from time to time by resolution of the Board. The Executive Director shall attend all regular Board meetings and serve on the Board without vote. The Executive Director shall be given the necessary authority and held responsible for administration of all corporate activities, as defined in these bylaws, subject only to such policies as may be adopted and such order as may be issued by the Board of Directors or by any of its committees to which it has specifically delegated

power for such action. The Executive Director shall be the Board's "Dully Authorized representative" over all matters for which responsibility has been delegated.

ARTICLE VII – COMMITTEES

Section 1: Executive Committee

The Executive Committee, if one is so established, shall consist of the President, Vice President, the Secretary, the Treasurer and not more than two (2) members-at-large selected by the President from among the members of the Board of Directors. The Executive Director shall attend all meetings of the Executive Committee. The Executive Committee shall consider and act on routine matters, prepare the agendas, and act in emergency situations when the full Board cannot be convened. Any actions taken by the Executive Committee are subject to ratification by the Board at the subsequent meeting. The Board may from time to time delegate decision-making to its Executive Committee, except in decisions governed by these Bylaws.

Section 2: Standing Committees

Standing Committees, if so established, shall consist of members from among the members of the Board of Directors; a committee may have non-Director members, except the Executive Committee. All committee shall be appointed by the President. The standing committees may be the (1) Executive Committee, chaired by the President; (2) Finance Committee, chaired by the Treasurer; (3) Board Development Committee, chaired by the Vice President.

Section 3: Other Committees

The President may appoint other committees as may be required from time to time to assist the Board. The powers and responsibilities of these committees will be defined by the Board.

ARTICLE VIII – FISCAL YEAR

The fiscal year shall begin on the first (1st) of July and end on the thirtieth (30th) of June.

ARTICLE IX – REPORTS

Section 1: Audit; Nonprofit Integrity Act Compliance

Accounts and fiscal practices shall be audited as required by law at such times as are deemed by the Board to be expedient.

In accordance with the Nonprofit Integrity Act (Stats. 2004, Ch. 919), as amended and updated from time to time, the corporation shall comply with additional reporting requirements if annual revenue for the fiscal year meets or exceeds Two Million Dollars (\$2,000,000.00), exclusive of grants from or contracts for services with governmental entities for which the governmental entity

requires an accounting. These additional reporting requirements shall include the following, as amended by law from time to time:

1. The annual financial statements must be prepared and audited by an independent certified public accountant in conformity with generally accepted accounting standards, pursuant to California Government Code, Section 12586(e)(1).
2. The Directors shall appoint an audit committee, separate from any finance committee of the corporation, responsible for overseeing the audit of the annual financial statement, pursuant to California Government Code, Section 12586(e)(2).
3. Any audited financial statements obtained by the corporation, whether or not required by law, shall be made available for inspection by the Attorney General and by the general public within Nine (9) months after the close of the fiscal year to which the statements relate. For Three (3) years, such statements (i) shall be available at the corporation's principal, regional, and district offices, if any, during regular business hours and (ii) shall be made available either by mailing a copy to any person who so requests in person or in writing, or by posting them on the corporation's website.

Section 2: Financial Reports

A financial report based on such audit shall be made available by the Treasurer to the director and members within 120 days of the close of the fiscal year. Additional financial reports shall be made available in such and at times as may be required or requested by the Directors.

Section 3: Annual Reports

The President and Executive Director shall present an annual report reviewing the year ended and making such recommendations for the year commencing. The annual report may, as appropriate, include consideration of the goal and objections of the Cultural Plan.

The annual report to Directors referred to in the California Nonprofit Corporation Code, Section 6321, shall be expressly dispensed with, provided the corporation has received less than Twenty-Five Thousand Dollars (\$25,000.00) in gross revenues or receipts during the fiscal year, but nothing in these Bylaws shall be interpreted as prohibiting the Board from issuing annual or other periodic reports to the Directors who request it in writing, within One Hundred Twenty (120) days of the close of its fiscal year, containing the following information in reasonable detail, as amended by law from time to time:

1. The assets and liabilities, including the trust funds, of the corporation as of the end of the fiscal year;
2. The principal changes in assets and liabilities, including trust funds, during the fiscal year;
3. The revenue or receipts of the corporation, both unrestricted and restricted to particular purposes, for the fiscal year;

4. The expenses or disbursements of the corporation, or both general and restricted purposes, during the fiscal year;
5. Any transaction during the previous fiscal year involving more than Fifty Thousand Dollars (\$50,000.00) in which the corporation (or its parent or subsidiaries, if any) was a party and in which any director or officer of the Corporation has a direct or indirect fiscal interest, or any of a number of such transactions in which the same person had a direct or indirect financial interest and which transactions in the aggregate involved more than Fifty Thousand Dollars (\$50,000.00);
6. The amount and any circumstances of any indemnifications or advances aggregating more than Ten Thousand Dollars (\$10,000.00) paid during the fiscal year to any Director or Officer of the corporation pursuant to Article V of these Bylaws, unless such indemnification has already been approved pursuant to that Article V; and
7. Any information required by California Corporations Code, Section 6322.

Section 4: Inspection Rights

Any Board member of the Corporation may inspect, within five (5) days of the request, the minutes of the corporation, financial records and reports, the articles of incorporation and Bylaws, committee minutes, and any other books, records or documents of the corporation. The right of inspection includes the right to copy and make extracts of documents.

ARTICLE X – FUNDS

Section 1: Restricted Funds

Trust Indenture- In the event funds are received for restricted purposes with the requirement that the principal shall remain intact, the Board shall provide for the designation of a trustee authorized by law to accept such funds, and, shall authorize the President and/or Treasurer to execute a trust indenture governing the use of these funds in such form as may be approved by the Board.

Restricted Gifts- a trust indenture in such form as may be approved by the Board reflective of the wishes of the settlor shall be recommended to persons contemplating making gifts for restricted purposes.

Section 2: Unrestricted Gifts

All gifts not restricted for a specific purpose and all gifts of Board members shall be considered unrestricted and utilized according to the financial plan of the Executive Director as ratified by the Board of Directors.

ARTICLE XI – EXECUTION OF INSTRUMENTS, DEPOSITS AND FUNDS

Section 1: Execution of Instruments

The Board of Directors, except otherwise provided in these bylaws, may by resolution, authorize any officer or agent of the corporation 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. No officer, agent or employee shall have any power or authority to bind the corporation by any contract or engagement or to pledge its credit or to render it financially liable for any purpose or in any amount, unless so authorized.

Section 2: Checks and Notes

Except as otherwise noted specifically determined by resolution of the Board, as provided in Section 1 above, or as otherwise required by law, checks, drafts, promissory notes, orders for the payment of money and other evidence of indebtedness of the corporation shall be signed by the Executive Director and a staff or Board member, as authorized by a resolution of the Board.

Section 3: Deposits

All funds shall be deposited from time to time to the credit of the corporation in such banks, trust companies or other depositories as the Board may select.

ARTICLE XIII – NONPROFIT REQUIREMENTS

Section 1: Nondiscrimination

The Council shall conduct all activities and employ all staff and contractors in conformance with applicable federal and state laws and regulations concerning nondiscrimination.

Section 2: Business to be Conducted Without Profit; Conflict of Interest

No part of the net earnings of the corporation shall inure to the benefit of, or be distributed to its members, officers or other private persons, except that the corporation shall be authorized and empowered to pay reasonable compensation for services rendered and to make payments and distributions in furtherance of the purposes set forth in the Articles of Incorporations. Actual expenses incurred by the Board members while conducted the affairs of the corporation may be paid by the Treasurer, provided that such expenses are authorized in advance by the Executive Committee or the Board. The Board is authorized to adopt a Conflict of Interest policy and procedure, which may be amended from time-to-time.

Section 3: Lobbying

No substantial part of the activities of the corporation shall be carrying on of propaganda, or otherwise attempting to influence legislation and the corporation shall not participate in or intervene in any political campaign on behalf of any candidate for public office. Notwithstanding any other provision of these articles, the corporation shall not carry on any other activities not permitted to be carried on (a) corporation exempt from federal income tax under Section 501 (c)

(3) of the Internal Revenue Code or (b) by a corporation, contributions to which are deductible under Section 170(c) (2).

ARTICLE XII – BYLAWS AMENDMENTS

Amendments may be proposed by any member, whereupon the President shall submit such proposals to the Board. Any proposal for bylaw amendments shall be adopted by a majority vote of the constituted Board following a minimum of a thirty-day (30) period of review. Amendments to these Bylaws shall become effective immediately on their adoption, or at such later time as specified in the amendment.

ARTICLE XIII – INCONSISTENCIES/DISSOLUTION

Section 1: Inconsistencies

In case any revisions of the Bylaws or any amendments shall be inconsistent with the Articles of Incorporation, the Articles of Incorporation shall govern.

Section 2: Dissolution

In the event of dissolution of the corporation, all liabilities will be paid and any residual assets of the corporation will be exclusively conveyed to one or more organizations exempt from federal tax under the provisions of Section 501(c) (3) of the Internal Revenue Code. Selection of the organization or organizations to receive the distribution shall be made by the Board. Preference will be given to one or more nonprofit group that performs charitable and public activities for a similar purpose, and which meet the foregoing standards.

CERTIFICATE OF SECRETARY:

I, the undersigned, certify that:

1. I am the presently elected and acting Secretary of the Fresno Arts Council, a California nonprofit corporation; and
2. That the foregoing Bylaws, consisting of eleven (11) pages are Bylaws of the Corporation adopted at a meeting of the Board of Directors held on September 19, 2018.

IN WITNESS WHEREOF, I have subscribed my name on this 29 day of October, 2018.


Thomas Ellis