

BY-LAWS OF THE RICHMOND POND ASSOCIATION, INC.

Effective December 29, 2000

**Amended June 24, 2014 & September 29, 2015 & April 26, 2016 & September 25, 2018 &
April 26, 2022 & October 24, 2023**

1 GENERAL PROVISIONS

1.01 Name and Purpose of the Corporation

The name and purpose of the Richmond Pond Association, Inc. (the “Corporation”) shall be as set forth in the Articles of Organization, which state: The purpose of the corporation is to engage in the following activities:

To promote and carry out the preservation and protection, and to maintain and enhance the natural environmental, recreational, esthetic and economic values to the public of Richmond Pond and its watershed.

To educate the public about the importance of preserving and protecting Richmond Pond, its watershed, and the wetland values associated with the Pond.

To assist town, regional, state and federal governmental bodies, nonprofit environmental organizations, and planning agencies to facilitate financial support for Pond preservation and protection, including repairs to the dam and other infrastructure.

To establish an information base regarding the Pond, and to serve as a member of the Lakes and Ponds Association of Western Massachusetts and similar organizations, and to otherwise advance the exchange of ideas and information regarding the protection and preservation of the Pond.

To conduct other such activities and programs in furtherance of the foregoing purposes as may be carried out by a corporation organized under the M.G.L c 180 and described in Section 501(c)(3) of the Internal Revenue Code.

These by-laws, the powers of the Corporation and of its directors and officers, and all matters concerning the conduct and regulation of its business shall be subject to such provisions as are set forth in the Articles of Organization.

1.02 Place of Business

The principal office of the Corporation shall be c/o Town of Richmond, 1529 State Road, Richmond, MA 01254, or the home address of the current president, or at such place as the board of directors of the Corporation may by resolution from time to time determine. The board may from time to time establish and maintain additional offices at such other locations as it may by resolution determine.

1.03 **No Members**

The corporation shall have no members. No person now or hereafter designated by the corporation as a “member” for any purpose shall be or be deemed to be a member for purposes of the Articles of Organization or by-laws of the Corporation or for purposes of M.G.L. c. 180, as amended, or any other law, rule or regulation. Any action or vote otherwise required or permitted to be taken by Chapter 180 or any other law, rule or regulation to be taken by the members shall be taken by action or vote of the same percentage of the directors of the corporation.

2 **DIRECTORS**

2.01 **Powers of the Directors**

The Corporation shall have a board of directors who shall have the powers and duties of a board of directors for a Corporation incorporated under G.L. c. 180 under Massachusetts law. The directors shall be responsible for the general management and supervision of the business and affairs of the Corporation. The directors may exercise all the powers of the corporation. The board of directors may from time to time, to the extent permitted by law, delegate any of its powers to committees, subject to such limitations as the board of directors may impose; provided, however, that no committee or individual may commit resources of the Corporation without prior approval of the board of directors. The board of directors may designate persons or groups of persons as sponsors, benefactors, contributors, advisors or friends of the Corporation or such other title as they may deem appropriate.

2.02 **Number, Qualifications and Term of Office**

2.02.01 The board of directors shall consist of 7 directors or such other number as the directors may determine from time to time. A majority of directors then in office shall elect the board of directors at the annual meeting of the directors or at a special meeting in lieu of an annual meeting. One director shall be nominated by each of the following organizations to represent such organization, or such successor organization or other organization as the directors may determine from time to time:

- (a) Boys & Girls Club of the Berkshires (Camp Russell);
- (b) Mill Town Capital (Camp Arrow Wood);
- (c) Richmond Shores Civic Association;
- (d) Branch Farm Association;
- (e) Whitewood Association (Whitewood Cottages); and
- (f) South Pond Farm Association.

The seventh director shall not be affiliated with the six organizations listed above and shall represent independent residential property owners with private access to Richmond Pond and members of the general public who are not affiliated with any of the above organizations.

There may one or two additional "at-large" directors, who may come from any of the 7

constituencies mentioned above. They would be appointed, following written application, by majority vote of the directors then in office.

Alternate directors may also be nominated by an organization, and voted in by the directors, but an alternate director may not vote, except in the absence of the director from their organization.

2.02.02 The Town of Richmond, City of Pittsfield, and Richmond Conservation Commission shall each appoint a representative to the board of directors. These *ex officio* directors shall serve as non-voting members of the board of directors.

2.03 **Manner of Acting**

Provided there is a quorum present at the meeting, and except as specified elsewhere herein, the board of directors shall act by vote of a majority of the directors present at the time of the vote.

2.04 **Resignation**

Any director may resign at any time upon written notice to the remaining directors, the president, treasurer or secretary. The resignation of any director shall take effect upon receipt of notice thereof or at such later time as shall be specified in such notice, and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

2.05 **Removal**

Any director may be removed at any time with or without cause by a majority vote of the directors then in office.

2.06 **Vacancies on the Board of Directors**

Continuing directors may act despite a vacancy in the board and shall for this purpose be deemed to constitute the full board. Any vacancy in the board of directors may be filled by majority vote of the directors then in office. Each director chosen to fill a vacancy on the board of directors shall hold office until the next annual election of the board of directors and until his successor shall be elected and qualify.

2.07 **No Right to Compensation**

Unless the directors in their discretion provide for compensation, directors shall serve without compensation. No director or officer resigning, and (except where a right to receive compensation shall be expressly provided in a duly authorized written agreement with the Corporation) no director or officer removed, shall have any right to any compensation as such director or officer for any period following his resignation or removal, or any right to damages on account of such removal, whether his compensation be by the month or by the year or otherwise.

3.01 **Place**

All meetings of the board of directors shall be held at the principal office of the Corporation or some other location within the Commonwealth of Massachusetts as shall be specified in the notice of meeting.

3.02 **Regular Meetings**

The board of directors shall meet monthly during April through October for the transaction of any lawful business of the Corporation, or such other day, time and place as shall be designated in the notice of meeting prescribed by section 3.05 hereof. The board may determine to meet more or less frequently in its discretion.

Any regular meeting of the board may be dispensed with or rescheduled by the directors at any prior meeting of the board. Regular meetings may be held at a location other than the Corporation's principal office, provided that the directors are duly notified of the location of the meeting in accordance with the notice provisions of set forth in section 3.05.

3.03 **Participation by Telephone**

Any director may participate in a meeting of the board or any committee thereof by a conference telephone or other communication equipment by means of which all persons in attendance at or participating in the meeting can hear each other at the same time. Participation by such director by such means shall for all purposes constitute presence in person at such board or committee meeting.

3.04 **Special Meetings**

The president and or four directors, when such person(s) deems it expedient and appropriate, call a special meeting of the board of directors. At such special meeting, no business shall be considered or transacted other than as designated in the notices prescribed by section 3.05.

3.05 **Notice to Directors of Regular and Special Meetings**

Notice of each meeting of the board of directors shall be given at least ten days prior to each regular meeting and at least forty-eight hours, not including Sundays and legal holidays, prior to a special meeting, by the secretary of the Corporation. Notice shall be in written or printed form and may be given by mailing, facsimile, email or other delivery to each director in person or addressed to the last known business, residential or email address, or facsimile number of such director. Whenever any notice is required to be given by law or by these by-laws, a waiver thereof in writing, signed by the person or persons entitled to said notice, whether before or after the time stated therein, shall be deemed equivalent thereto and retained with the records of the meeting. Except as otherwise provided herein, a notice or waiver of notice of a board of directors meeting need not specify the purposes of the meeting. Notice shall be deemed to be

given at the time when the notice is mailed, transmitted or otherwise issued.

3.06 **Conduct of Meetings**

At each meeting of the board, the president, or in the absence of the president, the vice-president, or in the absence of the vice-president, the secretary, shall act as presiding officer. The secretary, or in his/her absence, the president, shall prepare or cause to be prepared minutes of all business transacted by the board at each meeting. All meetings shall be open to the public.

There shall be an “annual meeting,” usually in summer, which is more broadly advertised, for the purpose of educating the public about the activities of the Association and soliciting additional engagement.

3.07 **Quorum**

A majority of the directors shall constitute a quorum. The presence of less than a quorum may adjourn any meeting from time to time without further notice. The affirmative vote of a majority of a quorum present at a meeting shall be necessary for any action taken by the board of directors.

3.08 **Audit Committee**

The board shall keep or cause to be kept full and accurate accounts of its receipts, expenditures, disbursements, assets, and liabilities. The board of directors shall appoint an Audit Committee, to be composed of three (3) directors. The Audit Committee shall annually examine the books of the Corporation and shall report to the board of directors the results of said audits. The Audit Committee shall also review the annual report prior to its submission to the Secretary of the Commonwealth.

ARTICLE 4 OFFICERS

4.01 **Election**

At its first meeting following the annual meeting of directors, the board of directors shall elect, from among the directors, a president, vice president, treasurer and clerk and such other officers as the board of directors shall determine. The term of office for those so elected shall be one year and until their respective successors are elected and qualified.

4.02 **Qualifications**

Two or more offices may be held by the same person, except the offices of president and secretary. The secretary shall be a resident of Massachusetts unless a resident agent shall have been appointed pursuant to Massachusetts law.

4.03 **Vacancies**

Any vacancy occurring among the officers, however caused, may be filled by the board of directors, for the unexpired portion of the term. If one of the officer positions remains unfilled, following outreach to all eligible/voting members of the RPA board, an alternate or ex officio member of the board may be elected to fill the position, on an interim basis, and would serve with voting authority.

4.04 **Removal**

Any officer of the Corporation may be removed from their respective offices with or without cause by resolution adopted by a majority of the directors then in office at any annual or special meeting of the board of directors or by a written consent by all of the directors then in office. An officer who is removed from his or her office will at the same time be removed from his or her other positions in the Corporation, including serving as director.

4.05 **Resignation**

Any officer may resign at any time by giving his or her resignation in writing to the president, treasurer, secretary or any other officer or director of the Corporation. An officer may resign as officer without resigning from other positions in the Corporation, including the position of director.

4.06 **Sponsors, Benefactors, Contributors, Advisors, Friends of the Corporation**

The directors may create classes of non-voting directorship, such as honorary directors, alternate directors, sponsors, benefactors, contributors, advisors or friends of the Corporation or such other title as the board deems appropriate. The directors may elect persons to those classes for such terms and on such conditions as the directors determine and may assign to such persons such responsibilities, duties, and privileges as the directors determine. Persons elected to such classes shall not be directors for the purposes of these by-laws shall have no votes at any meetings of the directors and no right to notice of any meeting. The only exception is that an alternate director may vote at a meeting if the director from their organization is not present.

4.07 **President**

The president shall be chief executive officer of the Corporation and, subject to the control of the board of directors, shall in general supervise and control all of the business and affairs of the Corporation. The president shall preside at all meetings at which he or she is present. Unless otherwise directed by the board of directors, all other officers shall be subject to the authority and supervision of the president. The president shall be responsible, with support from the treasurer, for the development of the annual budget and will present it to the board of directors for its approval no later than the June meeting. The approved budget will then be shared at the annual meeting. The president shall be co-signer with the treasurer on any bank accounts or other financial investments and shall perform the duties of the treasurer in the treasurer's absence or until a successor is selected. Any expenditure in excess of \$500 shall be co-signed by both the president and treasurer. The president, with support from the treasurer, shall be responsible for the timely filing each year of the annual report with the Secretary of the

Commonwealth. The president also shall have such other powers and duties as customarily belong to the office of president or as may be designated from time to time by the board of directors.

4.08 **Vice President**

The vice president shall assist the president. In the absence of the president at a meeting, the vice president shall assume all powers and perform all duties of the president. The vice president also shall have such other powers and duties as customarily belong to the office of vice president or as may be designated from time to time by the board of directors.

4.09 **Treasurer**

The treasurer shall be the chief financial officer of the Corporation. The treasurer shall also have such powers and duties as customarily belong to the office of treasurer or as may be designated from time to time by the president or the board of directors. The treasurer and the president (or vice-president in the president's absence) shall sign all checks, notes and drafts drawn by the Corporation, except that checks of \$500 or less that have been approved by the directors require only one signature.

4.10 **Secretary**

In absence of the president and vice president at a meeting, the secretary shall assume all powers and perform all duties of the president. The secretary shall cause to be published and distributed all notices which are required by the Corporation, its officers or board of directors. The secretary shall keep a roll call of those present at all meetings, and shall keep a record of the minutes of all meetings. In addition, the secretary shall have such powers and duties as customarily belong to the office of secretary or as may be designated from time to time by the president or the board of directors.

4.11 **Other Officers**

The directors may appoint legal counsel for the Corporation. Legal counsel shall hold the position of assistant secretary, with full authority to act on behalf of the Corporation in the capacity as secretary. Other officers shall have such powers as may be designated from time to time by the board of directors.

ARTICLE 5 INDEMNIFICATIONS OF DIRECTORS AND OFFICERS

The Corporation shall, to the extent legally permissible, indemnify each person who may serve or who has served at any time as a director or officer of the Corporation, or who at the request of the Corporation may serve or at any time has served as a director, officer or director of, or in a similar capacity with, another organization, against all expenses and liabilities (including counsel fees, judgments, fines, excise taxes, penalties and amounts payable in settlements) reasonably incurred by or imposed upon such person in connection with any threatened, pending

or completed action, suit or other proceeding, whether civil, criminal, administrative or investigative, 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, the proceeding was authorized by the Corporation 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 Corporation; and provided, further, that as to any matter disposed of by a compromise payment by such person, pursuant to a consent decree or otherwise, the payment and indemnification thereof have been approved by the Corporation, which approval shall not unreasonably be withheld, or by a court of competent jurisdiction. Such indemnification shall include payment by the Corporation 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 or she shall be adjudicated to 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.

A person entitled to indemnification hereunder whose duties include service or responsibilities as a fiduciary with respect to another organization shall be deemed to have acted in good faith in the reasonable belief that his or her action was in the best interests of the Corporation if he or she acted in good faith in the reasonable belief that his or her action was in the best interests of such organization or of the participants or beneficiaries of, or other persons with interests in, such organization to whom he or she had a fiduciary duty.

Where indemnification hereunder requires authorization or approval by the Corporation, such authorization or approval shall be conclusively deemed to have been obtained, and in any case where a director of the Corporation approves the payment of indemnification, such director shall be wholly protected if:

- (i) the payment has been approved or ratified (1) by a majority vote of a quorum of the directors consisting of persons 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 proceedings 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 Corporation) appointed for the purpose by vote of the directors or in the manner specified in clauses (1) or (2) of subparagraph (i); or
- (iii) the payment is approved by a court of competent jurisdiction; or
- (iv) the directors may have otherwise acted in accordance with the standard of conduct set forth in Chapter 180 of the Massachusetts General Laws.

Any indemnification or advance of expenses under this article shall be paid promptly, and

in any event within 30 days, after the receipt by the Corporation of a written request therefor from the person to be indemnified, unless with respect to a claim for indemnification the Corporation shall have determined that the person is not entitled to indemnification. If the Corporation denies the request or if payment is not made within such 30-day period, the person seeking to be indemnified may at any time thereafter seek to enforce his or her rights hereunder in a court of competent jurisdiction and, if successful in whole or in part, he or she shall be entitled also to indemnification for the expenses of prosecuting such action. Unless otherwise provided by law, the burden of proving that the person is not entitled to indemnification shall be on the Corporation.

The right of indemnification under this article shall be a contract right inuring to the benefit of the directors, officers and other persons entitled to be indemnified hereunder and no amendment or repeal of this article shall adversely affect any right of such director, officer or other person existing at the time of such amendment or repeal.

The indemnification provided hereunder shall inure to the benefit of the heirs, executors and administrators of a director, officer or other person entitled to indemnification hereunder. The indemnification provided hereunder may, to the extent authorized by the Corporation, apply to the directors, officers and other persons associated with constituent corporations that have been merged into or consolidated with the Corporation who would have been entitled to indemnification hereunder had they served in such capacity with or at the request of the Corporation.

The right of indemnification under this article shall be in addition to and not exclusive of all other rights to which such director or officer or other persons may be entitled. Nothing contained in this article shall affect any rights to indemnification to which Corporation employees or agents other than directors and officers and other persons entitled to indemnification hereunder may be entitled by contract or otherwise under law.

ARTICLE 6 AMENDMENT

These by-laws may be altered, amended or repealed, in whole or in part, by the affirmative vote of a majority of the directors present and voting at any meeting, the notice of which contains a statement of the proposed alteration or amendment.

7 MISCELLANEOUS

7.01 Corporate Records

The original, or attested copies, of the Articles of Organization, by-laws and records of all meetings of the incorporators and directors shall be kept in Massachusetts at the principal office of the Corporation, at an office of its assistant secretary, or at such other location as the board of directors may designate. The financial records of the Corporation shall be maintained by the treasurer, at a location as the board of directors may designate. Both types of records shall

be available at all reasonable times for the inspection of any director for any proper purpose and as required by law.

7.02 **Fiscal Year**

The fiscal year of the Corporation shall begin on the first day of July each year unless the board of directors shall direct otherwise.

7.03 **Corporate Seal**

The seal of the Corporation shall be a circular die with the name of the Corporation around the periphery and the year and the state of incorporation within. When the board of directors, or other officer or employee of the Corporation executes any instrument, document, writing, notice or paper on behalf of the Corporation, although executed without said seal affixed, the execution shall be of the same force and effect and as binding on the Corporation as if said official seal had been affixed thereon in each instance.