# BYLAWS

# CITY OF FOUNTAINS FOUNDATION

## ARTICLE I.

## Purpose: Offices

Section 1.1. Purpose. The foundation is a nonprofit corporation under the Missouri Nonprofit Corporation Act formed exclusively for charitable purposes within the provisions of Section 501(c)(3) of the Internal Revenue Code. Without limiting the generality of the foregoing, the purposes of the foundation shall be the following:

A. To acquire, construct, purchase and otherwise obtain fountains and related statuary, monuments or other similar works to be given from time to time to state, county or municipal governments in the following two-state, five-county geographical area:

Jackson County, Missouri
Clay County, Missouri
Platte County, Missouri
Johnson County, Kansas
Wyandotte County, Kansas

B. To provide funds for the erection and maintenance of such fountains, statuary, monuments or related works so given to such state, county or municipal governments.

C. To do and perform any and all other things necessary or incidental to any of the foregoing.

Section 1.2. Offices. The principal office of the foundation in the State of Missouri shall be located in the City of Kansas City, County of Jackson. The foundation may have such other offices, either within or without the State of Missouri, as the Board of Directors may determine or as the affairs of the foundation may require from time to time.

The foundation shall have and continuously maintain in the State of Missouri a registered office and registered agent whose office shall be identical with such registered office. The registered office need not be identical with the principal office and the address may be changed from time to time by the Board of Directors.

## ARTICLE II.

## Members

Section 2.1. No Members. The foundation shall not have members, but shall have only a self-perpetuating Board of Directors.

## ARTICLE III.

## Board of Directors

Section 3.1. Qualifications. Any person shall be eligible to be invited to membership on the Board of Directors who is interested in the purposes of the Foundation. A member of the Board must contribute or cause to be contributed a minimum of $200.00 per year (or such amount as the Board shall determine from time to time) to the City of Fountains Operating Fund; must be willing to serve on a foundation committee; and must agree to host or co-host a quarterly meeting of the Board on a rotating basis. Membership on the Board shall not be limited to members of any race, color, creed or national origin. The directors need not be residents of the State of Missouri. A director may resign at any time by giving written notice to the Secretary of the Foundation.

Section 3.2. General Powers. The affairs of the foundation shall be managed by its Board of Directors, which shall have all lawful powers, as well as those authorized under the Articles of Incorporation.

Section 3.3. Number and Tenure.

A. The number of directors shall be nineteen (19), and such number may be increased or decreased from time to time by amendment of the bylaws. The Chairman of the Park Board of Kansas City, Missouri, or such Chairman's designee from among the members of said Park Board, shall be an ex-officio voting member of the Board of Directors for the term of service on the said Park Board of such Chairman or of such designee. Each of the remaining directors will be elected for a two-year term. Any director whose term is about to expire may be elected to succeed himself/herself. Each elected director shall hold office until his or her successor shall have been duly elected and qualified. Any vacancy occurring in the Board of Directors and any directorship to be filled by reason of any increase in the number of directors shall be filled by the Board of Directors. If vacancies shall occur so that there is an insufficient number of directors to constitute a quorum, the remaining director or directors shall appoint a sufficient number of directors to constitute a quorum.

B. Directors shall be elected for staggered two-year terms, such that at each annual election, approximately one-half of the elected members of the Board will be elected each year.

Section 3.4. Regular meetings.

A. The annual meeting of the Board of Directors shall be held without other notice than this bylaw on the third Tuesday in the month of September, in each year, beginning with the year 1974, at 4:00 p.m., at the principal office of the foundation, for the purpose of electing directors and for the transaction of such other business as may come before the meeting. If the day fixed for this meeting shall be a legal holiday in Missouri, such meeting shall be held on the next succeeding business day. If the election of directors shall not be held on the day designated herein for the annual meeting, or at any adjournment thereof, the directors shall cause the election to be held at a special meeting of the Board of Directors as soon thereafter as conveniently may be. The Board may upon majority vote change the date, time and place of the annual meeting, and notice thereof shall be given in accordance with the provisions of Section 3.6 hereof.

B. The Board shall normally have quarterly meetings. Attendance by directors at all regular meetings of the board of directors shall be mandatory. Upon the taking of the roll of each meeting, the president of the board of directors shall announce the name of any director who has absented himself/herself from regular meetings of the board of directors on two consecutive occasions. The directors, by affirmative vote of a majority of the directors then in office, may thereupon remove such director. A director shall not be "absent" if prior to the meeting he/she shall notify the secretary of the organization that he/she will be unable to attend.

Section 3.5. Special Meetings. Special meetings of the Board of Directors may be called by or at the request of the President or three (3) directors.

Section 3.6. Notice. Notice of any special meeting of the Board of Directors shall be given at least five days previously thereto by written notice delivered personally or sent by mail or telegram to each director at his address as shown by the records of the foundation, or by any other means of notice permitted under the Missouri Nonprofit Corporation Act. Any director may in writing waive notice of any meeting, and such waiver, whether signed before or after the time stated therein, shall be deemed equivalent to the giving of notice. The attendance of a director at any meeting shall constitute a waiver of notice of such meeting. Neither the business to be transacted at the meeting nor the purpose of the meeting need be specified in the notice or waiver of notice of such meeting.

Section 3.7. Quorum. A majority of the Board of Directors shall constitute a quorum for the transaction of business at any meeting of the board.

Section 3.8. Manner of Acting. The act of a majority of the directors present at a meeting at which a quorum is present shall be the act of the Board of Directors.

Section 3.9. Executive Committee. There shall be an Executive Committee of the Board of Directors, which shall have and may exercise in the intervals between meetings of the Board of Directors, powers of the Board of Directors in the management of the foundation's affairs; provided that the Executive Committee: (1) may not elect Directors to fill any vacancy existing on the Board of Directors; (2) may not amend these bylaws or the Articles of Incorporation;

(3) may not take any action on any matter contrary to or inconsistent with prior action of, or policy enunciated by, the Board of Directors; (4) must report to the Board of Directors at the Board's next meeting all actions taken by the Executive Committee since the prior meeting of the Board; and (5) must refrain from acting on and must refer to the Board of Directors for its action any matter which may come before the Executive Committee at any meeting thereof, if during such meeting any member of the Executive Committee so requests. The members of the Executive Committee shall consist of the President, the Vice President(s), the Secretary and the Treasurer. A majority of the total members of the Executive Committee shall constitute a quorum for the transaction of business at any meeting of the Executive Committee. The act of a majority of the members of the Executive Committee present at a meeting at which a quorum is present shall be the act of the Executive Committee.

## ARTICLE IV.

## Advisory Board

Section 4.1. Number and Tenure. One member of the Art Commission of the City of Kansas City, Missouri, to be selected by said Art Commission, shall be a permanent member of the Advisory Board for the term of service on said Art Commission. The Director of Parks and Recreations for the City of Kansas City, Missouri, shall also be a permanent member of the Advisory Board for his term of service as Director of the Parks and Recreation for said Kansas City, Missouri. In addition, such other persons shall serve on the Advisory Board as may from time to time be invited by the Board of Directors. There shall be no maximum nor minimum number of Advisory Board members. Each Advisory Board member shall serve at the pleasure of the Board of Directors, except as provided in this Section 1 of Article IV.

Section 4.2. Meetings and Right to Vote. An Advisory Board member may be invited to attend any meeting of the Board of Directors but such Advisory Board member shall have no vote. An Advisory Board member need not be a subscriber.

## ARTICLE V.

## Officers

Section 5.1. Officers. The officers of the foundation shall be a President, one or more Vice Presidents, Secretary and Treasurer, each of whom must be a Director, and such other officers as may be appointed by the Board of Directors. Two or more offices may be held by the same person except the offices of President and Secretary.

Section 5.2. Election and Term of Office. The officers of the foundation shall be elected by the Board of Directors at its first meeting and annually thereafter at the annual meeting of the Board of Directors. Vacancies may be filled or new offices created and filled at any meeting of the Board of Directors. Any officer elected or appointed by the Board of Directors may be removed at any time by the affirmative vote of the majority of the whole Board of Directors.

Section 5.3. Compensation of Officers. The Board of Directors may from time to time provide for the compensation of the officers, but such compensation shall be limited to reasonable amounts for necessary services actually rendered to the foundation.

Section 5.4. President. The President shall be the chief executive officer of the foundation and shall preside at all meetings of the foundation including those of its Board of Directors. The President shall see that all orders and resolutions of the Board of Directors are carried into effect.

Section 5.5. Vice President. The Vice President shall, in the absence or disability of the President, perform the duties of that office. The Vice President shall, in addition, perform such other duties as may be directed by the President.

Section 5.6. Secretary. The Secretary shall keep the minutes of the meetings of the Board of Directors in books provided for that purpose. He/she shall see that all notices are duly given in accordance with the provisions of these bylaws or as required by law. The Secretary shall be the custodian of the records of the foundation, and, in general, he shall perform all duties incident to the office of Secretary.

Section 5.7. Treasurer. If required by the Board of Directors, the Treasurer shall give a bond for the faithful discharge of his/her duties in such sum and with such surety or sureties as the Board of Directors shall determine. The Treasurer shall have charge and custody of and be responsible for all funds and securities of the foundation, receive and give receipts for monies due and payable to the foundation from any source whatsoever and deposit all such monies in the name of the foundation in such banks, trust companies or depositories as shall be selected by the Board of Directors and shall in general perform all duties incident to the office of Treasurer.

## ARTICLE VI.

## Maintenance Fund

Section 6.1. Unless otherwise determined by the Board of Directors on a case by case basis, each fountain or statuary built under the sponsorship of the City of Fountains Foundation must acquire and maintain a maintenance fund equal to at least 25% of the original cost of construction of the fountain, statuary and/or site amenities, not including design costs. Interest earned on such maintenance fund will be added to the project funds, minus at least a 1% annual service charge to be paid to the City of Fountains Foundation toward its operating costs.

Section 6.2. The principal of each maintenance fund will only be used for the specific fountain, statuary and/or site amenities for which it was created, except as otherwise agreed by the donors or their successors or permitted by applicable law. The Board of Parks and Recreation Commissioners or other applicable owner shall submit a written request for funds to the City of Fountains Foundation for approval by the President, Treasurer, and any committee representing the specific fountain or statuary. It is understood that any public funds available for maintenance shall be utilized before requesting funds from a maintenance fund.

## ARTICLE VII.

## Fiscal Year

Section 7.1. Fiscal Year. The fiscal year of the foundation shall begin on the first day of January and end on the last day of December in each year.

## ARTICLE VIII.

## General Provisions

Section 8.1. Disbursement of Funds. The purposes of this Foundation are strictly charitable and no disbursement of the funds of the Foundation shall be made at any time for any purpose other than those recognized by Internal Revenue law, Federal law or State law as being proper for public charities and the Foundation shall have the right to receive gifts for charitable purposes.

Section 8.2. Conflicts of Interest Policy. Directors, officers, Advisory Board members and staff of the foundation shall (1) disclose to the foundation any personal or business benefit or profit which may accrue directly or indirectly to them or to a family member as a result of any contract, investment or other activity of the foundation; and (2) refrain from participation in any discussion or action of the foundation, Board of Directors or any committee related to the matter so disclosed, except to the extent their failure to vote at a meeting of the Board of Directors would cause the Board to be unable to act at such meeting.

Section 8.3. Indemnification. The foundation 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, by reason of the fact that such person is or was a director or officer of the foundation, if such person acted in good faith and in a manner such person reasonably believed to be in or not opposed to the best interests of the foundation, and with respect to any criminal action or proceeding, had no reasonable cause to believe such person's conduct was unlawful, and, with respect to any action or suit by or in the right of the foundation, if indemnification is permitted pursuant to Section 355.476.2, RSMo. The determination of whether the director or officer has met the applicable standard of conduct for indemnification shall be made by the Board of Directors by a majority vote of a quorum consisting of directors who were not parties to the action, suit, or proceeding, or if such quorum is not obtainable, or even if obtainable a quorum of disinterested directors so directs, by independent legal counsel in a written opinion. The indemnification provided by this Section 8.3 shall not be deemed exclusive of any other rights to which a director or officer seeking indemnification may be entitled under any provision of applicable law, the articles of incorporation or any agreement, vote of disinterested directors, or otherwise, as to action in such person's capacity as director or officer.

## ARTICLE IX.

## Amendment to Bylaws

Section 9.1. Amendments. These bylaws may be altered, amended or repealed and new bylaws may be adopted by a majority vote of the directors present at any regular meeting or at any special meeting, provided that any such new or amended bylaws shall not be inconsistent with the Articles of Incorporation.

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| Adopted: | 6/27/73 |
| Amended: | 3/25/74 |
| | 5/13/74 |
| | 10/1/75 |
| | 9/8/76 |
| | 10/12/77 |
| | 10/30/80 |
| | 4/25/90 |
| Amended and Restated: | 4/2/98 |
| Amended: | 9/17/02 |
| Amended and Restated: | 9/28/05 |