

WORCESTER COUNTY HORTICULTURAL SOCIETY
BYLAWS

(Revised June 2021)

Article I
NAME AND LOCATION

The name of this organization shall be “Worcester County Horticultural Society” (hereinafter “Society”). The name of the botanic garden established by the Society shall be Tower Hill Botanic Garden.

The principal office shall be in Boylston, Massachusetts. The Society’s Board of Trustees (hereinafter “Board”) may change the location of the principal office so long as the principal office remains in Worcester County.

Article II
PURPOSE

In accordance with the Society’s Charter dated March 3, 1842, as amended December 2, 1965, and as provided in the Society’s Mission Statement, the Society serves as an educational organization devoted to horticulture.

Article III
MEMBERSHIP

Section 1 **Membership**

- a) Membership shall be open to every person who supports the purposes of the Society and to every organization which supports the purposes of the Society.
- b) The Board shall establish from time to time such classes of membership as the Board considers appropriate.
- c) The Board shall establish from time to time an appropriate minimum contribution amount for each class of membership.
- d) The Society shall make a reasonable effort to notify each member of the Society (hereinafter “Member”) before their membership expires.

Section 2 **Members’ Rights**

- a) Each Member shall be accorded privileges consistent with their class of membership, as determined from time to time by the Board.

b) Any fifteen Members may nominate a candidate for any position to be filled by election at the next Annual Meeting. Nomination papers signed by such Members shall be delivered to the Executive Director at least two weeks before the Annual Meeting.

c) Each Member present at any Annual Meeting or Special Meeting shall have the right to vote.

d) At any Annual Meeting or Special Meeting, any Member may vote by proxy as provided by Section 6A of Chapter 180 of the General Laws.

Section 3 Removal

Any Member may be removed by a vote of three-quarters of the Trustees present at a meeting of the Board, provided that (a) the Member has been given reasonable advance notice that the Board may consider their removal at the meeting and (b) the Member is afforded an opportunity to be heard by the Board before it votes.

Article IV MEETINGS OF THE SOCIETY

Section 1 Annual Meeting

Effective for each fiscal year of the Society commencing with the fiscal year ending March 31, 2020, the Society shall hold its Annual Meeting on the third Thursday in June or at such other time within ninety (90) days following the close of such fiscal year as the Board may determine.

Section 2 Special Meetings

a) A Special Meeting of the Society shall be called by the Secretary upon the written request of (i) the President, (ii) any five Trustees, or (iii) a group of Members whose number constitutes at least ten percent of the quorum of Members required for an Annual Meeting.

b) Each request for a Special Meeting shall identify with reasonable specificity the purposes of the meeting, and any action taken at a Special Meeting shall be directly related to one or more of the identified purposes.

c) Each Special Meeting shall be held within sixty days after the Secretary's receipt of the request.

Section 3 Notice

The Secretary shall give notice of each Annual Meeting and Special Meeting to all Members at least two weeks prior to the meeting. Each notice of a Special Meeting shall identify the purposes of the meeting.

Section 4 Location

Each Annual Meeting and Special Meeting shall be held at the Society's principal office or at such other place as the Board may select.

Section 5 Quorum

No action shall be taken at any Annual Meeting or Special Meeting unless a quorum is present, as provided in Article X.

Article V BOARD OF TRUSTEES

Section 1 Powers and Duties

The Board of Trustees shall possess, and in its discretion may exercise, all of the powers that are made available to the Board by Chapter 180 of the General Laws, except such powers as the law reserves to the Members. The Board shall establish the Society's policies and shall oversee the management of its property and its affairs. Further, the Board shall:

- 1) consist of not less than fifteen, nor more than thirty-six, Members of the Society;
- 2) meet at least four times each calendar year, or with such greater frequency as the President may determine;
- 3) hold a meeting of the Board within thirty days after the Secretary's receipt of a written request by any three Trustees;
- 4) act upon recommendations of the Committees established pursuant to these bylaws; and
- 5) arrange for an annual audit of the Society's accounts and financial affairs.

Section 2 Election

a) Each Trustee shall be elected by the Members at the Annual Meeting for a three-year term continuing until the next Annual Meeting next following the close of such three year period and until his successor is elected and qualified (or the

Trustee is reelected in accordance with these bylaws and qualified) ¹or for such shorter period as will cause the term of office of approximately one-third of the Trustees to expire each year.

b) The Board may elect one or more Trustees at any time.

c) The term of any Trustee elected by the Board (i) shall end at the next Annual Meeting and (ii) shall not be included in determining the Trustee's maximum consecutive years of service.

Section 3 Tenure; Removal

a) No Trustee shall serve more than six consecutive years, except as provided in the following Section 3(b).

b) A Trustee who is serving as an officer in their sixth consecutive year as a Trustee may be re-elected annually as a Trustee for not more than four additional years if in each of the additional years the Trustee is elected to the same office or to another office.

c) A former Trustee may be re-elected after an interval of not less than one year.

d) A Trustee may be removed from the Board with or without cause (i) by a majority vote at any Annual Meeting or Special Meeting or (ii) by a two-thirds vote at any Board meeting, provided in both cases that the notice of the meeting stated clearly that removal of one or more Trustees might be considered at the meeting.

e) The Board may elect an individual to complete the period of the remaining term of any Trustee removed from office or who resigns during their term commencing with the date of such election and continuing through the next following Annual Meeting at which a successor (or the individual so appointed) is elected.

Section 4 Meeting Notice

Notice of each Board meeting shall be given to all Trustees at least seven days prior to the meeting.

Section 5 Attendance at Meetings

a) A Trustee who is unable to attend a meeting of the Board in person may attend the meeting by any electronic means approved by the Board.

b) A Trustee who fails to attend at least three-quarters of the Board's meetings each year may be considered for removal from the Board.

¹ The term of each Trustee and Officer elected at any meeting of the Members after March 1, 2017 and prior to April 1, 2019 will be extended for three months up to the meeting of Members next following the expiration of their original term.

Section 6 Leave of Absence

- a) A leave of absence from the Board may be granted at the discretion of the President
- b) All leaves of absence will be considered for extension at the next Annual Meeting
- c) No leave of absence shall last longer than the Trustee's elected term of service
- d) The leave of absence will be included in determining the Trustee's maximum consecutive years of service.

Section 7 Trustees Emeriti

- a) Any Trustee who has served for at least six years may be nominated by the Board and elected a Trustee Emeritus at an Annual Meeting.
- b) A Trustee Emeritus shall retain that title for the remainder of their life unless re-elected an active Trustee or removed with or without cause (i) by a majority vote at any Annual Meeting or Special Meeting or (ii) by a two thirds-vote at any Board meeting, provided in both cases that the notice of the meeting stated clearly that removal of one or more Trustees Emeritus might be considered at the meeting.
- c) Upon the termination of their term as an active Trustee, a former Trustee Emeritus shall automatically regain that title.
- d) A Trustee Emeritus may attend meetings of the Board as a non-voting member but shall not be entitled to attend executive sessions of such meetings.

Section 8 Honorary Trustees

- a) The Board may from time to time name an individual an Honorary Trustee, who shall not be a voting Trustee and are not entitled to attend meetings of the Board.

Section 9 Action at a Meeting, Consent

Except to the extent a greater vote is required by law, these bylaws, policy, funding instrument or other authority, action may be taken by the Board or a Committee thereof at a meeting at which a quorum is present in person or electronic means as provided herein, by vote of a majority of those so present or represented by proxy. Any action by the Board or any Committee thereof may be taken without a meeting if a written consent is signed or electronically acknowledged by all Trustees then in office and a majority of Trustees then in office agree to the action.

Article VI
OFFICERS AND THEIR DUTIES

Section 1 Officers

- a) Every officer of the Society must be a Trustee.
- b) The officers of the Society shall be a President; one or more Vice Presidents, one of whom may be designated First Vice President; a Treasurer; an Assistant Treasurer; and a Secretary.
- c) Officers shall be elected annually by the Members at the Annual Meeting and shall hold office until their successors are elected.
- d) The Board may appoint any individual to fill a vacancy in any office, and may also add one or more Vice President offices as necessary to fulfill the mission of the Society and elect an individual to such office to serve until the next Annual Meeting at which such individual or their successor shall be elected for such Vice President office.
- e) Officers may be re-elected.
- f) Notwithstanding any other provision in these bylaws, no person may serve as President for more than five consecutive years.

Section 2 President

The President shall:

- 1) preside at all meetings of the Society, the Board, and the Executive Committee;
- 2) have the usual powers and duties of the office and such other powers and duties as may be assigned by the Board;
- 3) meet regularly with the Executive Director;
- 4) appoint the chair of all committees except the Governance Committee;
- 5) be a member of all committees *ex officio*, but the President shall not be required to attend all meetings of all committees; and
- 6) maintain a general overview of the activities of the Society.

Section 3 Vice Presidents

The Vice Presidents shall:

- 1) have such powers and duties as may be assigned by the Board and such duties as may be assigned by the President; and
- 2) if a First Vice President has been designated, such First Vice President shall be presumed to be the next nominee for President, unless otherwise specified by the Governance Committee, and shall assist the President in their performance of duties as President and become familiar with the duties and responsibilities of the President, and assume the powers and duties of the President in their absence or incapacity

- 3) if no First Vice President has been designated, according to seniority in office, assume the powers and duties of the President in their absence or incapacity.

Section 4 Treasurer

The Treasurer shall:

- 1) oversee the financial affairs of the Society and shall have all powers necessary or incidental to that function;
- 2) present a report of the financial activities of the Society at each Annual Meeting;
- 3) present the annual budget to the Executive Committee and to the Board;
- 4) chair the Finance Committee;
- 5) serve as a member of the Investment Committee; and
- 6) provide annual reports to the Executive Committee as required by Article XI, Section 6, of these bylaws.

Section 5 Assistant Treasurer

The Assistant Treasurer shall:

- 1) act at the direction of the Treasurer; and
- 2) fulfill the duties and exercise the powers of the Treasurer in their absence or incapacity.

Section 6 Secretary

The Secretary shall:

- 1) record all proceedings of the Executive Committee, of the Board, and of the Society;
- 2) deposit all such records at the principal office of the Society where such records, excluding any confidential portions, shall be available to Members at reasonable times; and
- 3) be responsible for notices of meetings of the Society and the Board.

Section 7 Removal

An officer may be removed from office with or without cause (i) by a majority vote at any Special Meeting of the Society or (ii) by a two-thirds vote at any Board meeting, provided in both cases that the notice of the meeting stated clearly that removal of one or more officers might be considered at the meeting.

Article VII
EXECUTIVE DIRECTOR

The Executive Director shall:

- 1) be selected by the Board and shall serve at the pleasure of the Board;
- 2) be the senior executive officer of the Society;
- 3) subject to the instructions of the Board, be responsible for the general operation of the Society in accordance with their job description, as amended from time to time by the Board;
- 4) be designated "Chief Executive Officer of Tower Hill Botanic Garden;"
- 5) attend all Annual Meetings and Special Meetings of the Society and all regular meetings and special meetings of the Board and the Executive Committee;
- 6) supervise the Society's employees;
- 7) carry out such special duties as may be assigned by the Board;
- 8) meet regularly with the President;
- 9) be a member of all committees *ex officio* except as otherwise provided in these bylaws, but the Executive Director shall not be required to attend all meetings of all committees;
- 10) report the activities of the Society at each meeting of the Society, the Executive Committee, and the Board;
- 11) post promptly in a public place at the Society's principal office all nominations for any office of the Society; and
- 12) have authority, without prior Board approval, up to a certain dollar amount ("Executive Director Discretionary Authority"), (i) to enter into contracts on behalf of the Society and (ii) to expend for the benefit of the Society monies not budgeted or otherwise approved. The limits of the Executive Director Discretionary Authority shall be reviewed at least annually by the Finance Committee. Any proposed change in the limits of the Executive Director Discretionary Authority shall be presented by the Finance Committee to the Board and shall be subject to Board approval.

Article VIII COMMITTEES

Section 1 All Committees

Each Committee shall:

- 1) be chaired by a Trustee, unless otherwise determined by the Board; and
- 2) consist of Members, unless otherwise determined by the Board or otherwise stated in these bylaws.
- 3) have a quorum equal to a simple majority of their membership, unless otherwise stated in these bylaws.

Section 2 Standing Committees

The Executive Committee shall:

- 1) consist of the Officers and such other Trustees as the President may, with the consent of the Board, appoint for a term of one year;
- 2) have and exercise all the powers of the Board during intervals between meetings of the Board, except as otherwise provided by law or by these bylaws;
- 3) advise the Board, at the next meeting of the Board, of any actions of the Executive Committee requiring ratification or confirmation by the Board; and
- 4) meet at least four times each calendar year, or with such greater frequency as the President decides advisable.

The Governance Committee shall:

- 1) consist of eight Members, including the President and six other voting members, two of whom shall be elected at each Annual Meeting for a term as prescribed in Article V, Section 2, paragraph a) of these Bylaws, in addition to any individuals to be elected as Members to complete the term of any Member who was removed from office or resigned, and the non-voting member as provided in paragraph 12) below;
- 2) nominate candidates annually for election as Officers and Trustees;
- 3) nominate two candidates annually for election to the Governance Committee;
- 4) file all nominations with the Executive Director at least one month before the Annual Meeting;
- 5) report all nominations to the Board prior to the Annual Meeting;
- 6) present all nominations at the Annual Meeting; and
- 7) ensure that each new Trustee is familiarized with the Society's policies, practices, and facilities and with the responsibilities of Trustees.
- 8) At least three members of the Governance Committee shall be Trustees.

- 9) If any committee member fails to complete their term, the President shall appoint a replacement to serve until the next Annual Meeting, at which time there shall be an election to fill the remainder of that term.
- 10) No committee member shall serve for more than six consecutive years.
- 11) The Governance Committee shall select its own Chair.
- 12) The Executive Director shall serve as a non-voting member of the committee.

The Finance & Investment Committee shall:

- 1) consist of the Treasurer, the Assistant Treasurer, and any other individuals appointed by the President; and
- 2) advise the Executive Committee and the Board concerning the financial management of the Society and shall provide such additional advice and assistance as the Treasurer may request.
- 3) ensure compliance with the Society's investment policy; and
- 4) report regularly to the Executive Committee and to the Board.
- 5) Committee members may be reappointed.
- 6) Committee members other than the Treasurer and Assistant Treasurer need not be Trustees.

The Audit Committee shall:

- 1) consist of individuals appointed by the President who are not otherwise members of the Finance & Investment Committee; and
- 2) shall advise the Executive Committee and the Board concerning the formal annual audit, and shall be empowered to hire professional advisors for that purpose

Section 3 Other Committees

- a) With approval of the Board, the President may appoint such other committees as they consider advisable to uphold the mission and wellbeing of the institution.
- b) Committees thus established shall have such duties as may be assigned to them by the Board or by the President.
- c) Committee members may be reappointed.
- d) Unless otherwise determined by the Board, at least one-half of the members of each committee thus established shall be Trustees.

**Article IX
FINANCE**

Section 1 Fiscal Year

Effective as of April 1, 2019, the fiscal year of the Society shall begin on the first day of April.

Section 2 Accounts

- a) The monies of the Society shall be deposited in the name of the Society in such banks or other financial institutions as the Board shall designate.
- b) Funds shall be drawn only by check or orders signed by such persons as the Board shall designate.

Section 3 Restrictions

- a) No part of any earnings or assets of the Society may benefit any private person or individual other than by payment of reasonable compensation to employees in the normal carrying out of the purposes of the Society as set forth in Article II.
- b) No substantial part of the Society's activities shall consist of carrying on propaganda or otherwise attempting to influence legislation.
- c) The Society shall not participate or intervene in any political campaign on behalf of or in opposition to any candidate for public office.
- d) In the event of dissolution of the Society, all assets remaining after the payment of all liabilities shall be paid over to educational institutions located in Massachusetts which are exempt under Section 501(c) of the Internal Revenue Code of 1986, or the corresponding provisions of any future law.

**Article X
QUORUM REQUIREMENTS**

Section 1 General

No meeting of the Society, the Board, or the Executive Committee shall be convened, and no action shall be taken at such a meeting, without a quorum being present.

Section 2 Members

Sixty (60) or more Members shall constitute a quorum for the transaction of all business at meetings of the Society.

Section 3 Board of Trustees

Two-thirds of the Trustees eligible to vote, or ten Trustees eligible to vote, whichever is less, shall constitute a quorum.

Section 4 Executive Committee

Two-thirds of the members of the Executive Committee shall constitute a quorum.

Article XI CONFLICT OF INTEREST

Section 1 Policy

It is the policy of the Society that its Trustees, its staff, and all others acting on its behalf avoid ethical, legal, and financial conflicts of interest. These persons should ensure that their outside activities and interests neither conflict with, nor appear to conflict with, either their obligations to the Society or the welfare of the Society. Essential to this policy are (i) written disclosure of outside activities and affiliations which might give rise to conflicts; (ii) abstention from participation in any matter involving an actual or apparent conflict; (iii) availability of advice regarding any doubtful situation; and (iv) the establishment of procedures for decision-making and monitoring.

Section 2 Disclosure

Disclosure is required of all Trustees, staff, and other persons acting on behalf of the Society (i) who are in a position to make decisions for the Society favoring any outside interest or (ii) who reasonably may expect to derive any financial benefit, directly or indirectly, from the Society. Any such Trustee, staff member, or other person should submit a written report whenever a possible conflict, actual or apparent, arises. In addition, all Trustees, staff, and other persons acting on behalf of the Society should submit annual written reports acknowledging awareness of this policy and either affirming that they have no conflict of interest or identifying any interests that are in conflict or have the potential for conflict. All reports should be submitted (i) by the staff to the Executive Director, (ii) by the Executive Director and Trustees to the President, or (iii) by the President to the Executive Committee.

Section 3 Abstention

No Trustee, employee, or other person acting for the Society should participate in any planning or decision-making process in which they have an actual or apparent conflict of interest. One effect of this prohibition is that no one who supplies goods or services to the Society should serve on any committee (i) which is involved with the purchase of such goods or services, or (ii) which recommends or selects vendors of such goods and services.

Section 4 Advice

Judgments may sometimes differ as to whether there is an actual or apparent conflict of interest. Anyone in doubt should seek advice from the appropriate committee or person to whom a conflict report would be rendered.

Section 5 Decisions

- a) All annual reports and special reports made under this policy will be referred to the Executive Committee. The Executive Committee shall decide how the Society should proceed. In uncertain or difficult cases the Executive Committee shall refer the matter to the Board for decision. All decisions of the Executive Committee and the Board shall be set forth in the minutes of the meeting in which the decision is made.
- b) In arriving at a decision, the following principles shall be considered:
 - (i) The Society should not engage in any transaction or arrangement the propriety of which is open to question.
 - (ii) The Society should not use its financial resources or other resources for the financial benefit of any Trustee, employee, or other affiliated person, unless the circumstances leave no doubt that the Society's decision is in its own best interests.
 - (iii) The Society should not enter into any contract or other arrangement entailing payment for goods or services if it is aware of any actual or potential conflict of interest unless the Society has decided to waive the conflict.
 - (iv) A conflict of interest may be waived only by a recorded vote of the Executive Committee or the Board.

Section 6 Monitoring

The Treasurer shall provide a list of all persons and entities who have received payments from the Society during the previous fiscal year at the first Executive Committee meeting following January 1. The list shall include amounts paid by the Society. The Executive Committee shall review the list to verify compliance with this Article XI.

Article XII AMENDMENTS

Section 1 By the Board of Trustees

These bylaws may be amended or repealed by a vote of two-thirds of the Trustees then in office, except for any provision of any bylaw which requires action by the Members. Any amendment or repeal by the Board shall remain in effect only until the next Annual Meeting.

Section 2 Ratification

A summary of any action taken by the Board pursuant to Article XII, Section 1 shall be included in the notice of the next Annual Meeting. Such action taken by the Board shall cease to be effective unless approved by a majority of the Members present at the next Annual Meeting.

Section 3 By the Members

These bylaws may be amended or repealed by the Members at any Annual Meeting or Special Meeting, provided that the notice of the meeting informs the Members that amendment or repeal of the bylaws will be considered.

Section 4 Restrictions

No amendment may be made which adversely affects either the educational status of the Society or, upon dissolution of the Society, the disposition of assets to an educational tax-exempt organization as set forth in Article IX, Section 3(d).

Article XIII INDEMNIFICATION

Section 1 Persons Indemnified

This Article applies to the Society's Trustees, officers, employees, volunteers, and agents, as well as to agents of any other organization who serve at the Society's request on any employee benefit plan in which the Society participates. All of the persons to whom the preceding sentence refers are identified in the remainder of this Article as "Indemnitees." The indemnification contemplated by this Article shall be provided although the person to be indemnified (i) is no longer an officer, director, employee, agent, or volunteer of the Society or of such other organization or (ii) no longer serves with respect to any such employee benefit plan.

Section 2 Liabilities to which Indemnification Applies

Except as provided in the next sentence, the liabilities to which this Article applies are all claims, demands, debts, judgments, and expenses, including reasonable attorneys' fees, suffered or incurred by an Indemnitee by reason of their past or present status or service as a Trustee, officer, employee, agent, or volunteer. No indemnification shall be provided for any person with respect to any matter as to which they shall have been adjudicated in any proceeding not to have acted in good faith in the reasonable belief that their action was in the best interests of the Society or, to the extent that such matter relates to service with respect to any employee benefit plan, in the best interests of the participants or beneficiaries of such employee benefit plan. The liabilities to which this Article applies are identified in the remainder of this article as "Liabilities."

Section 3 Obligation to Indemnify

The Society shall indemnify and hold harmless the Indemnitees from and against all Liabilities. Such indemnification shall include payment by the Society of all reasonable expenses which an Indemnitee reasonably incurs 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 Indemnitee to refund such payment if they are subsequently adjudicated not to be entitled to indemnification under this Article. The Society shall accept such undertaking without reference to the Indemnitee's financial ability to make repayment.

Section 4 Effect upon Other Powers and Rights

Nothing in this Article shall be construed as a limitation upon (I) the Society's power or duty to indemnify persons or entities under any contract or law, or upon (ii) the right of any person or entity to seek indemnification from the Society under any contract or law.

Article XIV INTERPRETATION

These bylaws shall be construed to accord with all applicable laws and regulations, including without implied limitation Chapter 180 of the General Laws and Section 501 (c)(3) of the Internal Revenue Code.