

BYLAWS OF BENICIA GRAD NIGHT

A California Nonprofit Public Benefit Corporation

ARTICLE I. PURPOSE

- Section 1.01 **Organization.** This corporation is a nonprofit public benefit corporation and is not organized for public gain of any person. It is organized under California Corporations Code, Division 2, Nonprofit Corporation Law (“the Nonprofit Corporation Law”) for charitable purposes.
- Section 1.02 **Purpose.** The specific purposes for which the corporation is formed are to organize and carry out a safe and sober graduation celebration for high school seniors in the City of Benicia; to solicit donations of funds, materials, and services to assist in the foregoing endeavors; to engage in any other related lawful activity for which corporations may be formed under the Nonprofit Corporation Law.
- Section 1.03 **Compliance with Internal Revenue Code.** This corporation is organized exclusively for charitable purposes within the meaning of Section 501 (c)(3) of the Internal Revenue Code of 1954 or the corresponding provision of any future United States internal revenue laws, or (b) by a corporation, contributions to which are deductible under Section 170 (c)(2) of the Internal Revenue Code of 1954, or the corresponding provision of any future United States internal revenue law.

ARTICLE II. OFFICES

- Section 2.01 **Principal Office.** The corporation shall maintain its principal office in the City of Benicia, County of Solano, California.
- Section 2.02 **Change of Address.** The city and county of operation may be changed only by amendment to the bylaws of this corporation and not otherwise. The executive committee may, however, change the principal office from one location to another within the named city and county by noting the changed address and effective date in the minutes of a meeting of the board of directors and such change shall not be deemed an amendment to the bylaws.

Section 2.03 **Other Offices.** The corporation may also have offices at such other places, within or without the State of California, where it is qualified to do business, as its business may require, and as the board of directors, may from time to time, designate.

ARTICLE III. ASSETS

Section 3.01 **Assets.** The properties and assets of this nonprofit corporation are irrevocably dedicated to charitable purposes. No part of the net earnings, properties, or assets of this corporation, on dissolution or otherwise, shall insure to the benefit of any private person, individual, or direction of this corporation. On liquidation or dissolution, all properties and assets and obligations shall be distributed and paid over to an organization dedicated to charitable purposes, provided that the organization continues to be dedicated to the exempt purposes as specified in Internal Revenue Code Section 501 (c)(3).

ARTICLE IV. MEMBERS

Section 4.01 **Members.** The corporation shall have no members. Any action which would otherwise, under law or the provisions of the articles of incorporation or bylaws of this corporation, require approval by a majority of all members, or approval by members, shall only require the approval of the board of directors.

ARTICLE V. DIRECTORS

Section 5.01 **Number.** The corporation shall have not less than three (3) nor more than seven (7) directors, with the exact number be fixed within these limits by the approval of the board of directors in the manner provided in these bylaws. The directors shall collectively be known as the board of directors or the board.

Section 5.02 **Powers.** Subject to the provisions of the Nonprofit Corporation Law and any limitations on the articles of incorporation and these bylaws, the activities and affairs of this corporation shall be conducted, and all corporate powers shall be exercised, by or under the direction of the board of directors. Directors need not be residents of the State of California.

Section 5.03 **Duties:**

- (A) Perform any and all duties imposed upon them, collectively or individually, by law, by the articles of incorporation of this corporation or by these bylaws.
- (B) Appoint and remove, except as otherwise provided in these bylaws, and prescribe the duties of all officers, consultants, and agents of the corporation.
- (C) Supervise all officers, consultants, and agents of the corporation to see that their duties are properly performed.
- (D) Meet at such times and places as required by these bylaws.
- (E) Register their addresses with the secretary of the corporation. Notices of meetings mailed or electronically transmitted shall be valid notices thereof.

Section 5.04 **Terms of Office- Founding Directors.** Commencing with the fiscal year that begins on August 1, 2004, three (3) directors will be elected to a two-year term, and will thereafter be eligible for re-election to another consecutive two-year term; any additional directors added by the founding directors during the first fiscal year will be elected to a one-year term, and will thereafter be eligible for re-election for up to two (2) consecutive two-year terms.

Section 5.05 **Election.** The directors shall be elected at each regular annual meeting as prescribed in these bylaws. The candidate receiving the highest number of votes up to the number of directors to be elected are elected for the two-year terms.

Section 5.06 **Compensation.** Directors shall serve without compensation but shall be allowed reasonable advancement or reimbursement for expenses incurred in the performance of their duties as specified in Section 5.03 of this article. Such advancement or reimbursement shall not include travel to and from meetings of the board of directors. Directors may not be compensated for rendering services to the corporation in any capacity other than director, unless such other compensation is reasonable and is allowable under the provisions of section 5.07 of this article.

Section 5.07 **Restriction Regarding Interested Directors.** Notwithstanding any other provision of these bylaws, not more than twenty-five (25%) of the persons serving on the board may be interested persons. For the purposes of this section "interested persons" means either:

- (A) Any person currently being compensated by the corporation for services rendered within the previous twelve (12) months, whether as an independent contractor,

supplier of good or services, or otherwise excluding any reasonable advancement or reimbursement paid to a director as a director; or

(B) any brother, sister, descendant, ancestor, spouse, brother-in-law, sister-in-law, son-in-law, daughter-in-law, mother-in-law, or father-in-law of any such person.

Section 5.08 **Place of Meeting.** Meetings shall be held at the principal office of the corporation, unless otherwise provided by the board, or at such place within or without the State of California which has been designated from time to time by resolution of the board of directors.

In the absence of such designation, any meeting not held in the principal office of the corporation shall be valid if held on the written consent of all directors given either before or after the meeting and filed with the secretary of the corporation, or after all board members have been given written notice of the meetings, as hereinafter provided for special meetings of the board. Any meetings, regular or special, may be held by conference telephone or similar communications equipment, so long as all directors participating in such meeting can hear one another.

Section 5.09 **Regular and Annual Meetings.** Regular meetings of the board of directors shall be held on a quarterly basis on dates to be determined by the board of directors and at a place to be designated by the board of directors.

Section 5.10 **Special Meetings.** Special meetings of the board of directors may be called by the president or any two (2) directors, and such meetings shall be held at the place, within or without the State of California, designated by the person or persons calling the meeting, and in the absence of such designation, at the principal office of the corporation.

Section 5.11 **Notice of Meetings.** Regular meetings may be held without notice. Special meetings of the board shall be held upon four (4) days' notice by first-class mail, or forty-eight hours' notice delivered personally or by telephone or electronic communications. Such notices shall be addressed to each director at his or her address, as shown on the books of corporation.

Section 5.12 **Contents of Notice.** Notice of meetings not herein dispensed with shall specify the place, day, and hour of the meeting. The purpose of any board meeting need not be specified in the notice.

- Section 5.13 **Waiver of Notice and Consent to Holding Meetings.** The transactions of any meeting of the board, however called and noticed, or wherever held, are as valid as though the meeting had been duly held after proper call and notice, provided a quorum, as hereinafter defined, is present, and provided that either before or after the meeting, each director not present signs a waiver of notice, a consent to holding such a meeting, or an approval of the minutes thereof. All such waivers, consents, and approvals, shall be filed with the corporate records and made a part of the minutes of the meeting.
- Section 5.14 **Quorum of Meetings.** A quorum shall consist of the majority (51 percent) of the number of directors. If less than the majority of the directors are present at a meeting, a majority of those directors present may adjourn the meeting without further notice.
- Section 5.15 **Majority Action as Board Action.** Every act or decision done or made by a majority of the directors present at a meeting duly held at which a quorum is present is the act of the board of directors, unless the articles of incorporation or bylaws of this corporation, or provisions of the Nonprofit Corporation Law, particularly those provisions relating to the appointment of committees (Section 5212), approval of contracts or transactions in which a director has a material financial interest (Section 5233), and indemnification of directors (Section 5238e) require a greater percentage or different voting rules for approval of a matter by the board.
- Section 5.16 **Conduct of Meetings.** Meetings of the Board of Directors shall be presided over by the president of the corporation, or in his or her absence, by a chair chosen by the majority of the directors present at the meeting. The secretary of the corporation shall act as secretary of all meetings of the Board, provided that in his or her absence, the presiding officer shall appoint another person to act as secretary of the meeting.
- Meetings shall be governed by the most current edition of *Roberts Rules of Order*, insofar as such rules are not inconsistent with or in conflict with these bylaws, with the articles of incorporation of this corporation, or with provisions of law.
- Section 5.17 **Action by Unanimous Written Consent Without Meeting.** An action required or permitted to be taken by the board of directors under any provision of law may be taken without a meeting if all members of the board shall individually or collectively consent in writing to such action. For the purpose of this section only, “all members of the board” shall not include any “interested director” as defined in Section 5233 of the Nonprofit Corporation Law. Such written consent or consents shall be filed with the minutes of the proceedings of the board. Such action by written consent shall have the

same force and effect as the unanimous vote of the directors. Any certificate or other document filed under any provision of law which related to action so taken shall state that the action was taken by unanimous written consent of the board of directors without a meeting, and that the bylaws of this corporation authorize the directors to so act. Such statement shall be prima facie evidence of such authority.

Section 5.18 **Removal of Directors.**

(A) **For Cause.** The board may declare vacant the office of a director on the occurrence of any of the following events:

1. The director has been declared of unsound mind by an order of the court;
2. The director has been convicted of a felony; or
3. The director has been found by order of any court to have breached duties imposed by the Corporations Code on directors who perform functions with respect to assets held in charitable trust; or
4. The director has failed to attend three (3) consecutive meetings of the board.

(B) **Without Cause.** Any or all of the directors may be removed without cause if approved by the directors within the meaning of Section 5033 of the Corporations Code. However a director shall not be removed, unless the entire board is removed, when the votes cast against removal, or not consenting in writing to such removal, would be sufficient to elect such director, if voted cumulatively in an election in which the same total number of votes cast and the entire number of directors authorized at the time of the director's most recent election were then being elected.

Section 5.19 **Resignation.** Any director may resign effective on giving written notice to the president or secretary.

Section 5.20 **Vacancies on Board.** Vacancies on the board of directors shall exist (1) on the death, resignation, or removal of any director, and (2) whenever the number of authorized directors is increased.

Any vacancy occurring in the board of directors may be filled by a majority vote of the remaining directors. A director elected to fill a vacancy shall be elected for the unexpired term of his or her predecessor.

Section 5.21 **Non-Liability of Directors.** The directors shall not be personally liable for the debts, or other obligations of the corporation.

Section 5.22 **Indemnification by Corporation of Directors, Officers, Consultants, and Other Agents.** To the extent that a person, who is, or was, a director, officer, consultant, or other agent of this corporation, has been successful on the merits in defense of any civil, criminal, administrative, or investigative proceeding brought to procure a judgement against such person by reason of the fact that he or she is, or was, an agent of the corporation, or has been successful in defense of any claim, issue, or matter, therein, such person shall be indemnified against expenses actually and reasonably incurred by the person in connection with such proceeding.

If such person either settles any such claim or sustains a judgement against him or her, then indemnification against expenses, judgments, fines, settlements and other amounts reasonably incurred in connection with such proceedings shall be provided by this corporation, but only to the extent allowed by, and in accordance with, the requirements of Section 5238 of the Nonprofit Corporation Law.

Section 5.23 **Insurance for Corporate Agents.** The board of directors may adopt a resolution authorizing the purchase and maintenance of insurance on behalf of any agent of the corporation (including a director, officer, employee, or other any agent of the corporation) against any liability other than for violating provisions of law relating to self-dealing (Section 5233 of the Nonprofit Corporation Law) asserted against or incurred by the agent in such capacity or arising out of the agent's status, whether or not the corporation have the power to indemnify the agent against such liability under the provisions of Section 5238 of the Nonprofit Corporation Law.

ARTICLE VI. OFFICERS

Section 6.01 **Number and Titles.** The officers of this corporation shall be a president, a vice president, a secretary, and a financial officer. The officers shall comprise the executive committee of the board of directors.

Section 6.02 **Duties of the President.** The president shall be the general manager and the chief executive officer of the corporation and shall, subject to the control of the board of directors, supervise and control affairs of the corporation and the activities of the officers and consultants. He or she shall be an *ex officio* member of all standing and special committees of the board. He or she shall perform all the duties incident to her or his office and such other duties as may be required by laws, by the articles of incorporation of this corporation, or by the bylaws, or which may be prescribed from time to time by the board of directors. The president shall preside at all meetings of the board of directors and its executive committee. Except as otherwise expressly provided by law, by the articles of incorporation, or by the bylaws, he or she in the name of the corporation, execute such deeds, mortgages, bonds, contracts, checks, or other instruments, which may from time to time be authorized by the board of directors.

Section 6.03 **Duties of the Vice President.** In the absence of the president, or in the event of his or her inability or refusal to act, the vice president shall perform all the duties of the president, and when so acting shall have all the powers of, and be subject to all restrictions on, the president. The vice president shall serve on the executive committee of the board, and have other powers and perform other such duties as may be prescribed by law, by articles of incorporation of this corporation, or by these bylaws, or as may be prescribed by the board of directors.

Section 6.04 **Duties of the Secretary.** The secretary shall:

- (A) Certify and keep at the principal office of the corporation the original, or a copy, of these bylaws as amended or otherwise altered to date.
- (B) Keep at the principal office of the corporation or at such other place as the board may determine, a book of minutes of all the meetings of the directors, recording therein the time and place of holding, whether regular or special, how called, how notice thereof was given, the names of those present or represented at the meeting, and the proceedings thereof.
- (C) See that all notices are duly given in accordance with the provision of these bylaws or as required by law.
- (D) Be custodian of the records of the seal of the corporation and see that the seal is affixed to all duly executed documents, the execution of which on behalf of the corporation under its seal is authorized by law or by these by laws.
- (E) Exhibit at all reasonable times to any director of the corporation, or to his or her agent or attorney, on request therefor, the bylaws and the minutes of the proceedings of the directors of the corporation.

- (F) Serve as a member of the executive committee of the board.
- (G) In general, perform all duties incident to the office of secretary and such other duties as may be required by law, by the articles of incorporation of this corporation, or by these bylaws, or which may be assigned to him or her from time to time by the board of directors.

Section 6.05 **Duties of the Financial Officer.** Subject to the provision of these bylaws relating to the “Execution of Instruments, Deposits and Funds,” the financial officer shall:

- (A) Supervise the treasurer in the receipt and disbursal of funds.
- (B) Have charge and custody of, and be responsible for, all funds and securities of the corporation, and establish accounts in the name of the corporation in such banks, trust companies, or other depositories as shall be selected by the board of directors.
- (C) Keep and maintain adequate and correct accounts of the corporation’s properties and business transactions, including amounts of its assets, liabilities, receipts, disbursements, gains, and losses.
- (D) Exhibit at all reasonable times the books of account and financial records to any director of the corporation, or to his or her agent or attorney, on request thereof.
- (E) Render to the president and directors, whenever requested, an account of any and all of his or her transactions as financial officer, and of the financial condition of the corporation.
- (F) Prepare, or cause to be prepared, and certify, or cause to be certified, the financial statements, to be included in any required reports.
- (G) To prepare, or cause to be prepared, all tax returns and other fiscal reports required by federal, state, or local statute.
- (H) Serve as a member of the executive committee of the board.
- (I) In general, perform all duties incident to the office of financial officer and such other duties incident of the office of financial officer and such other duties as may be required by law, by the articles of incorporation, or by these bylaws, or which may be assigned to him or her from time to time by the board of directors.

- Section 6.06 **Subordinate Officers.** The Board of Directors may appoint such other officers as deemed necessary, and such officers shall serve such terms, have such authority, and perform such duties as may be prescribed from time to time by the board of directors.
- Section 6.07 **Qualification, Election, and Term of Office.** Any director may serve as an officer of this corporation. Officers shall be elected by the board of directors at the annual meeting of the corporation or at such other times as the replacement of an officer is required. An officer shall hold office until he or she resigns or is removed or is otherwise disqualified to serve, or until his or her successor shall be elected or qualified, whichever occurs first.
- Section 6.08 **Removal and Resignation.** Any officer or consultant may be removed, either with or without cause, by the board of directors, at any time. Any officer may resign at any time by giving written notice to the board of directors or to the president or secretary of the corporation. Any such resignation shall take effect at the date of the receipt of such notice or at any later date specified therein, and, unless otherwise specified therein, the formal acceptance of such resignation shall not be necessary to make it effective.
- Section 6.09 **Vacancies.** Any vacancies caused by the death, resignation, removal, disqualification, or otherwise, of any officer shall be filled by a majority vote of the board of directors. In the event of a vacancy in any office other than that of president, such vacancy may be filled temporarily through appointment by the president until such time as the board shall fill vacancy. Vacancies occurring in offices of officers appointed at the discretion of the board may or may not be filled, as the board shall determine.
- Section 6.10 **Compensation.** The officers and directors of the corporation shall not be compensated for the performance of their duties, except for the reasonable advancement or reimbursement for expenses incurred in the performance of their duties as specified in Section 5.06 of these bylaws.

ARTICLE VII. COMMITTEES

- Section 7.01 **Executive Committee.** The president, vice president, secretary, and financial officer of the corporation shall comprise the executive committee. The board shall delegate to the executive committee any of the powers and authority of the board in the management of the business and affairs of the corporation, except with respect to:
- (A) The filling of vacancies on the board or on any committee that has the authority of the board.

- (B) The amendment or repeal of bylaws or the adoption of new bylaws.
- (C) The amendment or repeal of any resolution of the board that by its express terms is not so amendable or repealable.
- (D) The appointment of committees of the board thereof.
- (A) The approval of any transaction to which this corporation is a party and in which one or more of the directors has a material financial interest, except as expressly provided in Section 5233(d)(3) of the Nonprofit Corporation Law.

By a majority vote, the board may at any time revoke or modify any or all of the authority so delegated, increase or decrease but not below three (3) the number of its member, and fill vacancies therein from the members of the board. The committee shall keep regular minutes of its proceedings, cause them to be filed with the corporate records, and report the same to the board from time to time as the board may require.

Section 7.02 **Other Committees.** The corporation shall have such other committees as may from time to time be designated by resolution of the board of directors. Such other committees may consist of persons who are not also members of the board. These additional committees shall act in an advisory capacity only to the board in accordance to policies and procedures developed and approved by the board.

Section 7.03 **Meetings and Action of Committees.** Meetings and actions of committees shall be governed by, noticed, held, and taken in accordance with the provisions of these bylaws concerning meetings of the board of directors, with such changes in the context of such bylaws provisions as are necessary to substitute the committee for the board of directors, except that the time for regular meetings or committees may be fixed by resolution of the board of directors or by the committee. The board of directors may also fix the time for special meetings of committees, and adopt rules and regulations pertaining to the conduct of meetings of committees to the extent that such rules and regulations are not inconsistent with the provisions of these bylaws.

ARTICLE VIII. EXECUTION OF INSTRUMENTS, DEPOSITS, AND FUNDS

Section 8.01 **Execution of Instruments.** All contracts and other instruments shall be approved by the board of directors and signed by the president and at least one other member of the executive committee. The board of directors, except as otherwise provided in these

bylaws, may by resolution authorize other officers or agents of the corporation to enter into any contract, or execute and deliver any instrument, in the name of and on behalf of the corporation, but such authority shall be confined to specific instances. Unless so authorized, 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 liable monetarily for any purpose or in any amount.

Section 8.02 **Checks and Notes.** Except as otherwise specifically determined by resolution of the board of directors, 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 two authorized signatories of the corporation. Any such transaction or series of transactions with a single business or individual in which the aggregate total exceeds one-thousand dollars (\$1,000) shall be signed by the financial officer or the president and one of the other authorized signatories of the corporation.

Authorized signatories on the general checking account to be used for Grad Night party operating expenses shall be the financial officer, or other authorized signatory approved by the board of directors.

Authorized signatories on any long-term savings or investment account, endowment fund, or accounts containing funds from restricted donations shall be the president and the financial officer only. Any transfer of funds from any account outside the general operating checking account including, but not limited to, long-term savings or investment accounts, must be approved by the board of directors. Transfer must be made by either the financial officer or the president.

Section 8.03 **Deposits.** All funds of the corporation shall be deposited from time to time to the credit of the corporation in such banks, trust companies, or other depositories as the board of directors may select.

Section 8.04 **Gifts.** The board of directors may accept on behalf of the corporation any contribution, gift, bequest, or devise for the charitable purposes of this corporation.

ARTICLE IX. CORPORATE RECORDS, REPORTS, AND SEAL

Section 9.01 **Maintenance of Corporate Records.** The corporation shall keep at its principal office in the State of California:

- (A) Minutes of all meetings of directors and committees of the board, indicating the time and place of holding such meetings, whether regular or special, how called, the notice given, and the names of those present and the proceedings thereof.
- (B) Adequate and correct books and records of account, including accounts of its properties and business transactions and accounts of its assets, liabilities, receipts, disbursements, gains, and losses.
- (C) A copy of the corporation articles of incorporation and bylaws, as amended to-date, which shall be open to inspection by the board of directors of the corporation at all reasonable times.

Section 9.02 **Corporate Seal.** The board of directors may adopt, use, and at will alter, a corporate seal. Such seal shall be kept at the principal office of the corporation. Failure to affix the seal to corporate instruments however, shall not affect the validity of any instrument.

Section 9.03 **Directors' Inspection Rights.** Every director shall have the absolute right any reasonable time to inspect and copy all books, records, and documents of every kind, and to inspect the physical properties of the corporation.

Section 9.04 **Right to Copy and Make Extracts.** Any inspection under the provisions of this article may be made in person or by agent or attorney and the right to inspection includes the right to copy and make extracts.

Section 9.05 **Annual Report.** The board shall cause an annual report to be furnished not later than one hundred and twenty (120) days after the close of the corporation's fiscal years to all directors of the corporation. The report shall contain the following information in appropriate detail:

- (A) The assets and liabilities, including the trust funds, of the corporation as of the end of the fiscal year.
- (B) The principal changes in assets and liabilities, including trust funds, during the fiscal year.
- (C) The revenue or receipts of the corporation, both unrestricted and restricted to particular purposes, for the fiscal year.
- (D) The expenses or disbursements of the corporation, for both general and restricted purposes, during the fiscal year.

ARTICLE X. FISCAL YEAR

Section 10.01 **Fiscal Year of the Corporation**. The fiscal year of the corporation shall begin on the first day of August and end on the last day of July each year.

ARTICLE XI. BYLAWS

Section 11.01 **Amendment of Bylaws**. Subject to any provision of law applicable to the amendment of bylaws of public benefit nonprofit corporations, these bylaws, or any of them, may be altered, amended, or repealed, and new bylaws adopted, by a majority vote of the board of directors.

ARTICLE XIII. AMENDMENT OF ARTICLES

Section 12.01 **Amendment of Articles**. Amendment of the articles of incorporation may be adopted by the approval of a majority of the board of directors of this corporation.

Section 12.02 **Certain Amendments**. Notwithstanding the above section of this article, this corporation shall not amend its articles of incorporation to alter any of the names and addresses of the first directors of this corporation, not the name and address of its initial agent, except to correct an error in such statement. Any other amendments to the articles of incorporation must be approved by a two-thirds majority to the directors and properly filed in the legally prescribed manner with the Secretary of State of the State of California.

CERTIFICATION OF BYLAWS

THIS IS TO CERTIFY, that I am the duly elected, qualified, and acting Secretary of Benicia Grad Night, a California nonprofit benefit corporation, and that the foregoing amended Bylaws were duly adopted by the Board of Directors of said corporation on September 10, 2015.

IN WITNESS THEREOF, I have hereto set my hand this 10th day of September, 2015.

Aimee Durant, Secretary