

**Bylaws  
Of the  
WESTERN SERVICE AREA AUTHORITY,  
INC.**

A PUBLIC BENEFIT CORPORATION WITH  
MEMBERS

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# 1 GENERAL

This part describes the type of corporation, the rules of construction and interpretation, the name, and location of the corporate offices.

## 1.1 TYPE OF CORPORATION

As stated in the *articles*, this nonprofit corporation is a public benefit corporation.  
[Reference Mont. Code Ann. §§ 35-2-126 and 35-2-213]

## 1.2 RULES OF CONSTRUCTION & INTERPRETATION

Bold *italicized* words represent special definitions that shall be given the same meaning wherever appearing in italics. Word gender, word plurality, and word sequence shall be given a reasonable meaning in the context of this entire document and may even be disregarded, where appropriate. If any part of this document should be determined inoperative or unenforceable, all other parts shall remain in effect. For this purpose, the following *bold, italicized* words represent the following special definitions:

<u>Term</u>	<u>Special Definition</u>
<i>Articles</i>	The articles of incorporation of this organization.
<i>Board or director(s)</i>	The board of directors of this nonprofit corporation An individual director on the <i>board</i> .
<i>Bylaws</i>	These bylaws
<i>Corporation</i>	This nonprofit corporation, the WESTERN SERVICE AREA AUTHORITY, INC.
<i>Member</i>	A person who is a voting <i>member</i> of this organization.
<i>Officers</i>	Officers of the board of directors and the corporation
<i>Region</i>	The defined geographical area for the WESTERN SERVICE AREA AUTHORITY, INC., as determined by the Department of Public Health and Human Services for the State of Montana

## 1.3 CORPORATE NAME AND SEAL

The nonprofit corporation shall do business in its corporate name, WESTERN SERVICE AREA AUTHORITY, INC. and any other properly registered name. The nonprofit corporation may acquire and use a corporate seal, which shall bear its corporate name.

#### **1.4 REGISTERED OFFICE & AGENT**

The registered office of the nonprofit corporation shall be located in Montana at the address of the registered agent. The initial registered agent and office of the nonprofit corporation is:

Registered Agent:	Tom Bartlett
Street Address:	33 Hathaway Lane
City/State/Zip:	Kalispell, MT 59901
Telephone:	406-885-3865

#### **1.5 PRINCIPAL OFFICE & ADDITIONAL OFFICES**

The principal office of the nonprofit corporation shall be located within Montana. Although the principal office need not be the same as the registered office, until designated otherwise, the principal office shall be that of the registered agent. The most current Annual Report of the nonprofit corporation, filed with the Montana Secretary of State, shall identify the location of the principal office. The *Secretary* shall maintain a copy of all required records at the principal office. The nonprofit corporation may have such other offices within the United States as the **board of directors** may designate.

#### **1.6 STATUS**

This nonprofit corporation is an instrumentality of the State of Montana.

#### **1.7 DURATION**

This nonprofit corporation shall have **perpetual life**.

## **2 PERMITTED PURPOSES**

The purpose of this nonprofit corporation is exclusively for charitable, education, and scientific purposes, including, for such purposes, the making of distributions to organizations that qualify as exempt organizations under section 501(c)(3) of the Internal Revenue Code, or the corresponding section of any future federal tax code; and more specifically, to

collaborate with **Montana's Department of Public Health and Human Services** (hereafter **DPHHS**) and local advisory councils to plan, implement, and evaluate regional public mental health care within the budget constraints for the WESTERN REGION of Montana [the Service Area as defined by the *DPHHS* under Montana Code Annotated § 53-21-1001];

promote consumer and family leadership within the public mental health system through the **WESTERN REGION** service area authority; and, foster a consumer-driven and family-driven system of public mental health care that advances access to a continuum of mental health services; and individual choice of services and providers.

*[Reference Mont. Code Ann. § 35-2-117]*

### **3 PROHIBITED PURPOSES**

Notwithstanding any other provision in the *articles* or these *bylaws*, this nonprofit corporation:

#### **3.1 No PERSONAL INUREMENT**

May not allow any part of its net earnings to inure more than incidentally for the benefit of any director, officer, or *nonvoting member*, except that the *corporation* may pay reasonable compensation for service rendered and may make payments and distributions in furtherance of the purposes set forth in this section.

#### **3.2 No LOBBYING ACTIVITIES**

May not allow any substantial part of its activities to carry on any propaganda, or otherwise attempt to influence legislation [except as permitted by I.R.C. § 501(h)].

#### **3.3 No Political Activities**

May not participate or intervene in (including the publishing or distributing of statements) any political campaign on behalf of (or in opposition to) any candidate for public office.

#### **3.4 No ACTIVITIES PROHIBITED BY 501(C)(3) OR 170(C)(2)**

May not engage in any activities which would fail to satisfy the requirements of I.R.C. § 501(c)(3)(including all corresponding provisions of any future federal tax code) for permitting its tax exempt status, and of I.R.C. § 170(c)(2)(including all corresponding provisions of any future federal tax code) for allowing the deductibility of its donor's charitable contributions.

#### **3.5 No ACTIVITIES CREATING A PRIVATE FOUNDATION**

May not be operated in any manner to cause it to be treated as a private foundation under I.R.C. § 509(a)(1), (a)(2), or (a)(3) or an organization.

*[Reference Mont. Code Ann. § 35-2-117]*

## 4 PERMITTED POWERS

Except as otherwise limited by the *articles*, this nonprofit corporation may exercise any of the general powers set forth under the Montana Nonprofit Corporation Act; including but not limited to:

collaborate with Montana's Department of Public Health and Human Services (hereafter DPHHS) to manage public health care through the planning, implementation and evaluation of services within the budget constraints for the WESTERN REGION of Montana [the Service Area as defined by the *DPHHS* under Mont. Code Ann. § 53-21-1001], and to do this in a clinically and fiscally responsible way to ensure access, consumer choice and effective treatment.

## 5 MEMBERS AND MEMBER CONGRESS

This nonprofit corporation may have one class of *members* (*members* with the right to vote). Such *members* hold the exclusive right to select the board of directors (hereafter *board*).

### 5.1 QUALIFICATIONS

As provided in Article 7 of the Articles of incorporation, *members* shall be the following persons:

This *corporation* shall have *members* (referred to as the membership's *Congress*). *Members* shall be those persons 16 years of age or older who reside within WESTERN REGION and have submitted a membership form. No other criteria or waiting period shall be required for voting membership. The *members* hold the exclusive right to select the board of directors.

### 5.2 TERM OF MEMBERSHIP

All *memberships* shall be perpetual, unless and until a *member* fails to meet the initial *membership* enrollment criteria (described above).

### 5.3 MEMBERSHIP NOT TRANSFERABLE

*Members* may not assign or transfer their *membership* rights to any other person.

### 5.4 REGULAR QUARTERLY CONGRESS MEETINGS

Unless designated otherwise, the *members* shall hold an annual meeting (*Congress*) two hours after the regularly scheduled annual meeting of the *board*. *Members* may hold three (3) other quarterly meetings in the year, to be set by the Board at the annual meeting.



## **5.5 SPECIAL CONGRESS MEETINGS**

Special meetings of *members*, for any purpose or purposes whatsoever, may be called at any time by the *president* or by a majority of a quorum of the *board of directors*, or by the written request of five percent (5%) or more of the voting power of the *members*.

## **5.6 PLACE OF CONGRESS MEETINGS**

All *member* meetings shall be held at the nonprofit corporation's principal office or at such other location in Montana as designated by the *board of directors*.

## **5.7 NOTICE OF REGULAR CONGRESS MEETINGS**

Notice of regular *Congress* meetings will be given orally at the annual meeting, and by oral notice at quarterly meetings, provided by email, publication on the WSAA website if and when enabled, and written notice to the LACs for posting. All board members and officers shall be notified by email or U.S. Mail.

## **5.8 NOTICE OF SPECIAL CONGRESS**

Written notice of each *Congress* meeting of the *members* shall be given by, or at the direction of, the *secretary* or person authorized to call the meeting by mailing a copy of such notice by first class, postage prepaid, at least ten (10) days but not more than fifty (50) days before such meeting to each *member* entitled to vote at the *members'* meeting, addressed to the *member's* address last appearing on the books of the nonprofit corporation or supplied by such *member* to the nonprofit corporation for the purpose of notice. Such notice shall specify the place, day and hour of the meeting and those matters which the *board of directors* at the time of the mailing of the notice intends to present for action by the *members*.

Alternatively, proper notice may be given as provided for in Notice of Regular Congress Meeting.

## **5.9 QUORUM FOR CONGRESS**

A quorum shall constitute the *members* of the nonprofit corporation present in person at a meeting.

## **5.10 PROXY FOR CONGRESS**

*Members* may not vote by proxy.

## **5.11 PRESUMPTION OF NOTICE**

A recitation in the minutes of any *membership* meeting that notice of such meeting had been properly given shall be *prima facie* evidence that such notice was given.

## **5.12 PARLIAMENTARY PROCEDURE**

A *members' Congress* shall be conducted in accordance with a recognized system of parliamentary procedure or such parliamentary procedures as the nonprofit corporation may adopt.

### 5.13 No MEMBERSHIP DUES

The *board of directors* may not levy any dues or any other economic requirements for *membership*.

## 6 BOARD OF DIRECTORS

This part describes the duties and authority of the *board of directors*.

### 6.1 INITIAL DIRECTORS

The *board of directors* shall be comprised of 19 persons, serving staggered three year terms. With approval of these *bylaws* by the initial *Congress*, the initial *board of directors* shall be comprised of the following persons, serving the following full or partial terms:

#	Name	Term	Address	Telephone
1.	Leslie Nyman/Lee Anne Beebe	3 yrs	Pathways 200 Heritage Way Kalispell, MT 59901	406-756-3950
2.	Royalee Bishop	1 yr	WMMHC 8 Second Avenue S.W. Ronan, MT 59864	406-676-8500
3.	Heidi Davis	1 yr	235 North 1 <sup>st</sup> West Missoula, MT 59801	406-543-2202 ext. 201
4.	Tom Bartlett	3 yrs	33 Hathaway Lane Kalispell, MT 59901	406-885-3865
5.	Paul Meyer	2 yrs	4180 Jamie Ann Missoula, MT 59801	406-251-050
6.	Jennifer Robohm; UM CPC	1 yr	1444 Mansfield Avenue Missoula, MT 59801	406-370-7479
7.	Jane Tremper East	2 yrs	222 Fairview Avenue Missoula, MT 5981 <a href="mailto:janefo@montana.com">janefo@montana.com</a>	406-543-9804
8.	Boyd Roth	3 yrs	Box 1254 Kalispell, MT 59903	406-752-6003
9.	Michelle Lewis	2 yrs	3400 Hill #101 Butte, MT 59701	406-494-1665
10.	Brenda Desmond	1 yr	District Court, Dept. 3 Missoula County Courthouse 200 West Broadway Missoula, MT 59802	406-258-4728
11.	Alyce Anderson	3 yrs	519 East 4 <sup>th</sup> Street Libby, MT 59923	406-293-5380
12.	Erin Garlinghouse		305 W. Mercury Butte MT 59701 <a href="mailto:1freedomroads@earthlink.net">1freedomroads@earthlink.net</a>	406-1782-5555 home 1(406) 498- 3125 cell phone

#	Name	Term	Address	Telephone
13.	Shirley Wooster		11206 ½ E. 4 <sup>th</sup> Anaconda MT 59711	1(406) 563-5457
14.				
15.				
16.				
17.				
18.				
19.				

## 6.2 QUALIFICATION OF DIRECTORS

Of the 19 elected *directors*,  
all *directors* must reside within the WSAA *Region*

up to ten (10) directorships are reserved for direct appointment by up to ten (10) operating Local Area Councils (LACs) within the WSAA region. Up to ten (10) LACs may each appoint one board member and one non-voting alternate. The alternate may vote in the event the director from the appointing LAC is unable to attend the board meeting;

a majority of all *directors* shall be consumers of mental health services and family members of consumers of mental health services;

the remaining directors shall be selected from persons representing the stakeholders in the state mental health system, including but not limited to representatives of: the criminal justice system, county commissioners, Western Montana Mental Health Center or its successor, private psychologists, education, vocational rehabilitation, University/VoTech, emergency room/Providence Treatment Center, crisis response teams, private providers, housing, substance abuse, and Native American communities, among other stakeholders.

A *director* may qualify for more than one of the above criteria, for example: a county commissioner could also be in education or be from a Native American community.

## 6.3 TERM OF OFFICE FOR DIRECTORS

Each *director* shall hold office for the designated three year or partial three year term and on expiration of such term, shall be replaced at the next annual *Congress* meeting. If a *director's* term expires, the *director* shall continue to serve until replaced.

**6.3.1** Local Area Councils shall strive to appoint primary or secondary consumers as their appointed director to ensure the board consists of a majority of consumers.

**6.4 TERM LIMITS**

Directors may serve up to two (2) consecutive terms. After a one year break, a director may be appointed or elected to return to a directorship.

**6.5 GENERAL POWERS**

All corporate powers shall be exercised by or under the authority of the *board of directors*. The business and affairs of the nonprofit corporation shall be managed under the direction of the *board of directors*. Each *director* shall have one vote on any matter that comes before the *board*.

**6.6 REMOVAL**

A *director* may be removed by the required vote and manner provided in Montana Code Annotated § 35-2-421, as it may be amended from time to time.

**6.7 VACANCY**

If a vacancy occurs on the *board of directors* by either attrition or removal, the *directors* may fill the vacancy unless the vacancy is of a director appointed by an LAC. If the *directors* remaining in office constitute less than a quorum of the *board*, they may fill the vacancy by the affirmative vote of a majority of all the *directors* remaining in office. If the vacancy occurs in a directorship filled by LAC appointment, the original appointing LAC will appoint a new director. If the original LAC no longer exists, a new LAC may fill the position. Whenever a new director is elected by the *directors* or appointed by the LAC to fill a vacancy, the *director's* term shall be for the same term of the *director* being replaced.

**6.8 REMOVAL FOR LACK OF ATTENDANCE**

A director may be removed from office by a majority vote of the *board of directors* if a *director* misses three (3) or more meetings in any six (6) month period. A director also may be removed from office by a majority vote of the members of the appointing LAC if a *director* misses three (3) or more meetings in any six (6) month period.

**6.9 REGULAR BOARD MEETINGS**

The *board of directors* shall hold regular meetings as follows:

Type	When and Where
Monthly Meetings	On the third Wednesday of the month, in Missoula at St. Patrick's Hospital unless otherwise determined by the <i>board of directors</i>
Annual Meetings	On the third Wednesday of September at the place of the <i>board meeting</i> .

The *board of directors* may provide notice as set forth above for *Congress* meetings. The *board* may also provide (by resolution the date, time and place for additional meetings. Regular *board of director* meetings may be held by conference telephone, if convened in accordance with these *bylaws*.

#### **6.10 SPECIAL BOARD MEETINGS**

Upon appropriate and timely notice, a special meeting may be called in the manner provided by Montana Code Annotated § 35-2-527. In addition to the authority of the *directors*, the chairman of the *board* and the *president* (if they are separate individuals) are separately authorized to call a special meeting. In addition, upon written request to the *president* and *secretary*, five percent (5%) of the *directors* in office may call a special board meeting. Those authorized to call special *board* meetings may fix any time and place for a special meetings, so long as such time and place is reasonably convenient to the *directors*. Special *board of director* meetings may be held by conference telephone, if convened in accordance with these *bylaws*.

#### **6.11 TELEPHONIC BOARD MEETINGS**

If authorized by the *board of directors*, the *board of directors* or any designated committee of the corporation may participate in a *board* or committee meeting by means of a conference telephone or similar communications equipment, provided all persons entitled to participate in the meeting have received proper notice of the telephone meeting and are able to hear each other at the same time. A *director* participating in a conference telephone meeting is deemed present in person at the meeting. The chairperson of the meeting may establish reasonable rules as to conducting the meeting by phone. The *secretary* must provide instructions for participating in all telephonic meetings (whether regular or special).

#### **6.12 NOTICE FOR SPECIAL BOARD MEETING**

The corporation's *secretary* shall give either oral or written notice of any special *director* meeting at least two (2) days before the meeting. The notice shall include the meeting place, day and hour, but need not state its purpose. If telephonic, the *secretary* shall satisfy the special requirements for holding such meetings. If mailed, notice of any *director* meeting shall be deemed to be effective at the earlier of the following:

**five** days after deposited in the United States mail, addressed to the *director's* business office, with postage prepaid;

the date shown on the return receipt (if sent by registered or certified mail, return receipt requested, and the receipt is signed by or on behalf of the *director*); or,

the date when received.

### **6.13 WAIVER OF NOTICE FOR SPECIAL BOARD MEETINGS**

Any *director* may waive notice of any meeting in writing (if signed and filed with the minutes or corporate records) or by attendance (unless the *director*, at the beginning of the meeting or promptly upon arrival objects to holding the meeting or transacting business at the meeting and does not vote for or assent to action taken at the meeting.

### **6.14 QUORUM FOR BOARD MEETINGS**

A majority of the number of *directors in office* shall constitute a quorum for the transaction of business at any *board of directors* meeting.

### **6.15 PRESENCE & MAJORITY RULE AT BOARD MEETINGS**

The act of a majority of the *directors* present at a meeting at which a quorum is present (when the vote is taken) shall be the act of the *board of directors*. If no quorum is present at a meeting of *directors*, the *directors* may not take action on any *board* matter other than to adjourn the meeting to a later date. The corporation shall deem a *director* to have approved of an action taken if the *director* is present at a meeting of a *board* unless any of the following occur:

the *director* objects at the beginning of the meeting (or promptly upon arrival) to holding it or transacting business at the meeting;

the *director's* dissent or abstention from the action taken is entered in the minutes of the meeting; and,

the *director* delivers written notice of dissent or abstention to the presiding officer of the meeting before its adjournment or to the nonprofit corporation immediately after adjournment of the meeting. The right of dissent or abstention is not available to a *director* who votes in favor of the action taken.

### **6.16 CONDUCT OF BOARD MEETING**

The *president*, or in the *president's* absence, the *vice-president*, or in their absence, any person chosen by the *directors* present shall call the meeting of the *directors* to order and shall act as the chairperson of the meeting. The chairperson, or the chairperson's designee, shall establish rules of the meeting that will freely facilitate debate and decision-making. The chairperson will indicate who may speak when and when a vote will be taken. The *secretary* of the corporation shall act as the *secretary* of all meetings of the *directors*, but in the *secretary's* absence, the presiding officer may appoint any other person to act as the *secretary* of the meeting.

## **6.17 UNANIMOUS ACTION WITHOUT A MEETING**

The *directors* may act on any matter generally required or permitted at a *board* meeting, without actually meeting, if:

all the *directors* approve the action;

each one signs a written consent describing the action taken;

and the *directors* file all the consents with the records of the nonprofit corporation.

Action taken by consents is effective when the last *director* signs the consent, unless the consent specifies a different effective date. A signed consent has the effect of a meeting vote and may be referred to as a meeting vote in any document.

[Reference Mont. Code Ann. § 35-2-428]

## **6.18 COMMITTEES**

The *board of directors* may create one or more committees from its board to serve on them. Each committee must have two (2) or more *directors*, who serve at the pleasure of the *board of directors*.

### **6.18.1 Selection of Committee Members**

To create a committee and appoint *members* to it, the *board* must acquire approval by the majority of all the existing *directors* when the action is taken.

### **6.18.2 Required Committee Procedures**

The same *bylaws*, which govern, *board* meetings and procedures apply to committees and their *members*. Committees shall keep regular minutes of their proceedings and report the same to the *board of directors*.

### **6.18.3 Authority of Committees**

Each committee shall have the specific authority set forth in the *board* resolution creating it, except a committee may not do any of the following:

approve or recommend dissolution, merger, or the sale, pledge, or transfer of all or substantially all of the nonprofit corporation's assets;

elect, appoint, or remove *directors* or fill vacancies on the *board of directors* or on any of its committees; or,

adopt, amend, or repeal the *articles* or *bylaws*.

## **6.19 COMPENSATION, LOANS TO, OR GUARANTEES FOR DIRECTORS**

Other than for actual expenses, no *director* may be remunerated for attending a *board* meeting. Subject to all other limitations in these *bylaws*, a *director* may receive reasonable compensation for non-director services and reimbursement for out-of-pocket expenses. Under no circumstance may this nonprofit corporation lend money to a *director* or guarantee the obligation of a *director*.

## **7 OFFICERS**

This part describes the authority and responsibilities of the officers of the nonprofit corporation.

### **7.1 NUMBER OF OFFICERS**

The nonprofit corporation shall have the following officers:

*President*  
*Vice President*  
*Secretary*  
*Treasurer*

The *board of directors* shall elect each of the above officers from the *board of directors* in the manner prescribed in these *bylaws*. On an interim basis, the *board* may fill vacant positions. The same person may simultaneously serve for more than one office, but not for all officers.

### **7.2 APPOINTMENT AND TERM OF OFFICE**

Unless the *board of directors* determine otherwise, the officers of the corporation shall hold office for one year or until they resign, die or are removed, whichever is earlier. A designation of a specified term does not grant to the officer any contract rights, and the *board* can remove the officer at any time prior to the termination of the designated term.

### **7.3 REMOVAL OF OFFICERS**

The *board of directors* may remove any officer or agent any time with or without cause. Removal shall be without prejudice to any contract rights, if any, of the person removed. A *board's* appointment of an officer or agent may not of itself create contract rights.

### **7.4 PRESIDENT**

The *president* in good faith shall:

act as the principal executive officer of the nonprofit corporation, but subject to the control and limitations of the *board of directors*;



supervise and control all of the business and affairs of the nonprofit corporation;

preside at *members'* and *directors'* meetings (when present);

have authority to sign, with the *secretary* or any other proper officer of the nonprofit incorporation that the *board* has authorized, expenses vouchers, corporation documents, insurance policies, bonds, contracts, or other *board* authorized instruments; and,

have authority to appoint advisory committees for recommendations as to planned activities of the corporation, so long as each advisory committee has no authority to act.

## **7.5 THE VICE-PRESIDENT**

The *vice-president* in good faith shall:

perform the *president's* duties if the *president* is absent, dies, is unable or refuses to act;

have all presidential powers and be subject to all the restrictions upon the *president*, when acting in the absence of the *president*; and,

perform any other duties that the *president* or *board* may assign to the *vice-president*.

## **7.6 THE SECRETARY**

The *secretary* in good faith shall:

create and maintain one or more books for the minutes of the proceedings of the *Congress* and *directors*.

provide that all notices are served in accordance with these *bylaws* or as required by law;

be custodian of the corporate records;

when requested or required, authenticate any records of the nonprofit corporation;

keep a current register of the address of each *member*;

assume the duties of *president*, when the *president* and *vice-president* are unable to act; and,

perform all duties incident to the office of *secretary* and any other duties that the *president* or the *board* may assign to the *secretary*.

## **7.7 THE TREASURER**

The *treasurer* in good faith shall:

have charge and custody of and be responsible for all funds and securities of the nonprofit corporation;

receive and give receipts for moneys due and payable to the nonprofit corporation from any source, and deposit all moneys in the nonprofit corporation's name in banks, trust companies, or other depositories that the *board* shall select;

submit the books and records to a Certified Public Accountant or other accountant for annual audit or review;

in general, perform all of the duties incident to the office of *treasurer* and any other duties that the *president* or *board* may assign to the *treasurer*; and if requested by the *board*

give a bond for the faithful performance of the *treasurer's* duties and as insurance against the misappropriation of funds, if required by the *board of directors*; and if a bond is required, it shall be in a sum and with the surety of sureties that the *board of directors* shall determine.

## **7.8 OFFICERS' SALARIES, LOANS, LOAN GUARANTEES**

No *director* may receive remuneration as an officer or an employee. Subject to this limitation, the *board of directors* may fix and/or adjust salaries of any officer or employee. The nonprofit corporation may not lend money to or guarantee the obligation of an officer of the nonprofit corporation.

# **8 DISSOLUTION, INDEMNIFICATION, MERGER, REMOVAL OF DIRECTORS**

The *secretary* of the nonprofit corporation may notify the attorney general of the State of Montana when dissolution, indemnification, merger, removal of *directors*, and the sale of assets (as defined in the Montana Nonprofit Corporation Act) occur. The *secretary* shall deliver notice in the manner required by each event and cooperate with the Attorney General in providing necessary information.

## **8.1 DISSOLUTION**

In the event of dissolution, the *secretary* shall give the Attorney General written notice that the nonprofit corporation intends to dissolve at or before the time the *secretary* delivers *articles* of dissolution to the

secretary of state. The notice must include a copy or summary of the plan of dissolution. The nonprofit corporation may not transfer or convey assets as part of the dissolution process until 20 days after the *secretary* has given the written notice to the Attorney General or until the Attorney General has consented in writing to the dissolution or indicated that the Attorney General will not take action in respect to transfer or conveyance, whichever is earlier. When the nonprofit corporation has transferred or conveyed all or substantially all of its assets following approval of dissolution, the *board* shall deliver to the Attorney General a list showing those, other than creditors, to whom the nonprofit corporation transferred or conveyed assets. The list must indicate the address of each person, other than creditors, who received assets and an indication of what assets each received.

## **8.2 INDEMNIFICATION**

The *secretary* of the nonprofit corporation must give the Attorney General written notice of its proposed indemnification of a *director*. The nonprofit corporation may not indemnify a *director* until 20 days after the effective date of the written notice.

## **8.3 MERGER**

The *secretary* of the nonprofit corporation must give the Attorney General written notice of a proposed merger of the nonprofit corporation, and include with the notice a copy of the proposed plan of merger, at least 20 days before consummation of any merger.

# **9 INDEMNIFICATION OF *DIRECTORS*, ETC.**

This part describes the circumstances and limitations on indemnifying corporate *directors* and officials.

## **9.1 *DIRECTORS ACTING IN GOOD FAITH & PAYMENT IS AUTHORIZED***

If a person is sued in his capacity as a *director*, he shall be indemnified against liability, but only if a determination has been made in accordance with procedures set forth in the Montana Nonprofit Corporation Act that the *director* acted in **good faith and reasonably believed:**

while acting in an official capacity with the nonprofit corporation, that his conduct was in the nonprofit corporation's best interests; in all other cases, that his conduct was at least not opposed to the nonprofit corporation's best interest; and in the case of any criminal proceeding, that he had no reasonable cause to believe that the conduct was unlawful, and, payment has been authorized in accordance with procedures listed in the Montana Nonprofit Corporation Act based on a conclusion that the expenses are reasonable, the nonprofit corporation has the financial ability to make the

payment, and the financial resources of the nonprofit corporation should be devoted to this use rather than some other use by the nonprofit corporation.

## **9.2 REASONABLE BELIEF REGARDING PENSION PLANS**

If a *director* reasonably believed his decisions and conduct with respect to an employee benefit plan was in the interests of the participants, then his conduct shall be regarded in good faith and reasonable.

## **9.3 EFFECT OF OTHER COURT PROCEEDINGS**

The termination of a proceeding by judgment, order, settlement, conviction, or upon a plea of *nolo contendere* or its equivalent, is not, of itself, a determination that the *director* did not meet the required standard of conduct.

## **9.4 INDEMNIFICATION PROHIBITED IN CERTAIN CIRCUMSTANCES**

The nonprofit corporation may not indemnify a *director*, if:

the *director* was adjudged liable to the corporation in a proceeding by or in the right of the corporation; or the *director* was adjudged liable in any other proceeding charging that the *director* improperly received personal benefit, whether or not the individual acted in an official capacity.

## **9.5 INDEMNIFICATION LIMITED**

Indemnification in connection with a proceeding by the nonprofit corporation is limited to the reasonable expenses incurred in connection with the proceeding.

## **9.6 ADVANCE EXPENSES FOR DIRECTORS**

The *board of directors* may cause the nonprofit corporation to pay for or reimburse, in advance of final disposition of the proceeding, the reasonable expenses incurred by a *director* who is a party to a proceeding if, by following the procedures of the Montana Nonprofit Corporation Act, the *board of directors* determined that the *director* met the following requirements and the *board of directors* authorized an advance payment to a *director*:

### **9.6.1 Good Faith**

The *director* has furnished the nonprofit corporation with a written affirmation of his own good faith belief; and

### **9.6.2 Guarantee**

The *director* has provided the nonprofit corporation with a written undertaking, executed personally or on his behalf, to repay the advance if it is ultimately determined that he did not act reasonably

and in good faith; the *director's* undertaking must be an unlimited general obligation, but need not be secured, and the nonprofit corporation may accept the undertaking without reference to financial ability to make repayment.

### **9.6.3 Indemnification of Officers, Agents and Employees**

The *board of directors* may choose to indemnify and advance expenses to any officer, employee, or agent of the nonprofit corporation applying the same standards applicable to corporation *directors*.

### **9.6.4 Mandatory Indemnification**

Notwithstanding any other provisions of these *bylaws*, the nonprofit corporation shall indemnify a *director* or officer, who has wholly successful, on the merits or otherwise, in the defense of any proceeding to which the *director* or officer was a party because he or she is or was a *director* or officer of the nonprofit corporation, against expenses incurred by the *director* or officer in connection with the proceeding.

## **10 LIMITATIONS AND RESTRICTIONS ON CERTAIN TRANSACTIONS**

This part describes special limitations and restrictions regarding certain transactions.

### **10.1 AUTHORITY TO SIGN CHECKS & LEGAL DOCUMENTS**

Unless otherwise authorized by the *board of directors*, all checks for any amount, stock certificates, bonds, drafts, contracts, notes and other legal instruments shall be *co-signed by any two different persons*, each of whom must hold at least one of the following offices:

*President*  
*Vice-President*  
*Secretary*  
*Treasurer*

### **10.2 LOANS**

Unless otherwise authorized in writing by the *board of directors*, the nonprofit corporation may not allow anyone to contract on behalf of it on credit or issue evidence of the nonprofit corporation's indebtedness. The authorization may be general or specific.

### **10.3 DEPOSITS**

The *treasurer* of the nonprofit corporation shall deposit all funds of the nonprofit corporation, that are not being used, in banks and other depositories; the *board of directors* shall authorize by *board* resolution the exact location of the banks and depositories.

## **11 PROHIBITED**

This part describes certain prohibited transactions.

### **11.1 NO SHARING IN CORPORATION INCOME**

No *member, director, officer, employee, committee member, or person* connected with the nonprofit corporation shall receive at any time any of the net earnings or pecuniary profit from the operations of the nonprofit corporation; provided that this may not prevent the nonprofit corporation's payment to any person of reasonable compensation for services rendered to or for the nonprofit corporation in effecting any of its purposes as determined by the *board of directors*.

### **11.2 NO SELF-SERVING DISTRIBUTIONS**

The nonprofit corporation may not have or issue shares of stock. No dividends shall be paid. No part of the income or assets of the nonprofit corporation shall be distributed to any *member* of the nonprofit corporation without full consideration. The nonprofit corporation is prohibited from lending money or guaranteeing any obligation of a *member, director* or officer of the nonprofit corporation. The nonprofit corporation may contract in due course, for reasonable consideration, with its *members, directors, trustees, and officers* without violating this provision.

### **11.3 NO SELF-SERVING DISTRIBUTIONS ON DISSOLUTION**

No *member, director, or officer* of the nonprofit corporation shall be entitled to share in the distribution of any of the nonprofit corporation's assets upon the dissolution, except in the capacity as a creditor. All *members and directors* are deemed to have expressly agreed that, upon the dissolution or the winding up of the affairs of the nonprofit corporation, whether voluntary or involuntary, the assets of the nonprofit corporation, after all debts have been satisfied, then remaining in the hands of the *directors*, shall be distributed, transferred, conveyed, delivered, and paid over exclusively to the organization or organizations as the *directors* may designate, that are qualified as tax exempt under Internal Revenue Code of

1986 § 501(c)(4), and as it may later be amended.

#### **11.4 NO SELF-SERVING TRANSACTIONS WITH RELATED PARTIES**

Neither the nonprofit corporation, nor its *directors*, nor its officers have any power to cause the nonprofit corporation to do any of the following with any *related parties*:

make any substantial purchase of securities or other property, for more than adequate consideration in money or money's worth;

sell any substantial part of its securities or other property, for less than an adequate consideration in Money or Money's worth.

*Related parties* means any person who has made a substantial part of its securities or other property, for less than an adequate consideration in money or money's worth.

#### **11.5 TRANSACTIONS JEOPARDIZING TAX EXEMPT STATUS**

Notwithstanding any other provisions of these *bylaws*, no *member*, *director*, officer, employee or representative of this nonprofit corporation shall take any action or carry on any activities by or on behalf of the nonprofit corporation, which would jeopardize or threaten its tax exempt status.

#### **11.6 PURCHASE OF MEMBERSHIPS**

The nonprofit corporation may not purchase any of its *memberships* or any right arising from *membership*.

#### **11.7 CORPORATE FUNDS USED FOR INDEMNIFICATION**

Corporate funds may be used to benefit officers and *directors* by way of indemnification, but only if such indemnification is authorized in these *bylaws*.

### **12 EMERGENCY BYLAWS**

*Emergency bylaws* shall be effective during an *emergency*, which is when a quorum of the nonprofit corporation's *directors* cannot be readily assembled because of some catastrophic event.

#### **12.1 HOW INITIATED**

During an *emergency*, any one *member* of the *board* or any *president*, any *vice-president*, the *secretary* or the *treasurer* may call a meeting of the *board*. Notice of the *emergency* meeting need be given only to those *directors* and officers whom it is practicable to reach, and may be given in any practical manner, including by publication and radio. The notice shall be given at least six (6) hours prior to commencement of the meeting.

## **12.2 TEMPORARY DIRECTORS AND QUORUM**

During an *emergency*, one or more officers of the nonprofit corporation present at the emergency *board* meeting shall be considered to be temporary *director*(s) for the meeting. The number of officers needed shall equal the number of *directors* necessary to constitute a quorum. The officers shall serve in the order of rank, and within the same rank, in order of seniority. In the event that less than a quorum of the *directors* is present (including any officers who are to serve as *directors* for the meeting), those *directors* present (including the officers serving as *directors*) shall constitute a quorum.

## **12.3 ACTIONS PERMITTED TO BE TAKEN**

Subject to the above-described notice and quorum requirements, the *board* may:

### **12.3.1 Officer's Powers**

Prescribe *emergency* powers to any officer of the nonprofit corporation;

### **12.3.2 Delegation of Any Power**

Delegate to any officer or *director* any of the powers of *directors*;

### **12.3.3 Lines of Succession**

Designate lines of succession of officers and agents, in the event that any of them are unable to discharge their duties;

### **12.3.4 Relocate Principal Place of Business**

Relocate the principal place of business or designate successive or simultaneous or simultaneous principal places of business;

### **12.3.5 All Other Action**

Take any other action, convenient, helpful, or necessary to carry on the business of the nonprofit corporation.

## **12.4 AMENDMENTS**

***CAVEAT: Qualified legal advice should be obtained before changing either the articles or bylaws, inasmuch as changing the articles or bylaws could disqualify the tax exempt status of this corporation.***

This part describes how the *bylaws* of this **public benefit corporation with voting members** may be amended. As a **public benefit corporation**, the *articles* provide:

**The *board* and the *members* may amend these *articles* and the *bylaws* in any manner authorized under the Montana Nonprofit Corporation**



