

**BY-LAWS
OF
CITY OF FAIRFAX BAND ASSOCIATION, INC.**

ARTICLE I

Purpose

The purpose or purposes for which CITY OF FAIRFAX BAND ASSOCIATION, INC. ("the Corporation") is organized are:

for charitable, educational and scientific purposes within the meaning of section 501(c) (3) of the Internal Revenue Code of 1986, as amended ("Code"), or corresponding provision of any subsequent Federal tax laws; to engage in activities relating to the aforementioned purposes; and to invest in, receive, hold, use and dispose of all property, real or personal as may be necessary or desirable to carry into effect the aforementioned purposes; and in furtherance but not in limitation thereof,

to stimulate, promote and develop interest in the musical environments, to educate the general public in the musical environment, to advance the national culture in the musical environment through the performance of, and education in the wind and percussion ensemble, and symphonic band musical literatures;

to provide opportunity for development of individual musicianship and musical skills; and for individual musical expression and enjoyment of music among its membership and the general public.

No part of the net earnings of the Corporation shall inure to the benefit of any member or other individual. None of the property of the Corporation shall be distributed directly or indirectly to any member of the Corporation. The Corporation shall not carry on propaganda or otherwise attempt to influence legislation, and which does not participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of any candidate for public office. In the event of the dissolution or liquidation of the Corporation, any assets then remaining shall be distributed among such organizations as shall qualify at the time as exempt organizations described in Code section 501(c) (3) as the Directors shall determine. The Corporation shall not engage in any transaction or do or permit any act or omission which shall operate to deprive it of its tax exempt status under section 501(c) (3) of the Code.

If the Corporation is a private foundation as defined in section 509 of the Internal Revenue Code,

- (1) the Corporation will distribute its income for each taxable year at such time and in such manner as not to become subject to the tax on undistributed income imposed by section 4942 of the Internal Code, or corresponding section of any future Federal Tax Code.

- (2) the Corporation will not engage in any act of self dealing as defined in section 4941(d) of the Internal Revenue Code, or corresponding section of any future Federal Tax Code.
- (3) the Corporation will not retain any excess business holdings as defined in section 4943(c) of the Internal Revenue Code, or corresponding section of any future Federal Tax Code
- (4) the Corporation will not make any investments in such manner as to subject it to tax under section 4944 of the Internal Revenue Code, or corresponding section of any future Federal Tax Code.
- (5) the Corporation will not make any taxable expenditures as defined in section 4945(d) of the Internal Revenue Code, or corresponding section of any future Federal Tax Code.
- (6) the Corporation shall not participate in, 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.
- (7) the Corporation shall not make any expenditures to influence legislation.

ARTICLE II

Offices

The Corporation shall have and continuously maintain in the State of Virginia a registered office and a registered agent whose office is identical with such registered office, and may have other officers within or without the State of Virginia as the Board of Directors may from time to time determine.

ARTICLE III

Members

Section 1: QUALIFICATION AND SELECTION OF MEMBERS. The initial Board of Directors shall elect the members of the Corporation at the first Organizational Meeting. Thereafter, the Board of Directors shall by majority vote elect or remove members and members shall serve until so removed. The members shall elect the officers and the Board of Directors and shall have the power to remove same at any duly called meeting for that purpose. The rights, qualifications and privileges of membership may be amended by the members from time to time by amendment of these By-laws.

Section 2: VOTING RIGHTS. Each member shall be entitled to one vote on each matter submitted to a vote of the members. Voting shall not be cumulative. Except as specifically set forth in these By-Laws to the contrary, all matters or the Articles of Incorporation

submitted to the member for vote shall require majority vote of the members then present and voting at a meeting where a quorum exists.

Section 3: QUALIFICATIONS.

- A. Any individual who is interested in the purpose of The City of Fairfax Band Association, may be considered a candidate for membership, provided that:
 - (i) A written application is made to the Music Director;
 - (ii) The individual can perform the music played by the Concert Band or its ensembles to the satisfaction of the Music Director;
 - (iii) An audition is completed if required by the Music Director for admittance to the Concert Band, or its ensembles, or for placement within the sections; and
 - (iv) A vacancy exists, as determined by the Music Director.
- B. Such a candidate shall become a member of the Corporation when:
 - (i) The requirements mentioned in Section 3.A of this Article have been met;
 - (ii) A probationary period of 90 days has been fulfilled showing a sincere interest to participate and support the Concert Band, its ensembles and activities; and
 - (iii) Current membership dues have been paid.
- C. Everyone admitted to membership shall remain a member as long as he or she shows musical competence and fulfills the conditions and duties of membership as stated in the Constitution and By-Laws, subject to such member's removal as provided herein.

Section 4: DUTIES OF MEMBERSHIP.

- A. All members shall take part in the activities of the Concert Band or its ensembles.

ARTICLE IV
Meetings of Members

Section 1: ANNUAL MEETING. The first annual meeting of the members shall be held at the second rehearsal in September, 1994. Thereafter, an annual meeting of the members shall be held at the second rehearsal in the month of May in each year, beginning with the year 1995, for the purpose of electing officers and Directors and for the transaction of such other business as may come before the meeting. If the election of officers and Directors shall not be held on the day designated herein for any annual meeting, or at any adjournment thereof, the Board of Directors shall cause the election to be held at a special meeting of the members called as soon thereafter as conveniently may be held.

Section 2: SPECIAL MEETING. Special meetings of the members may be called by the President, the Board of Directors or a majority of the members of the Corporation.

Section 3: PLACE OF MEETING. The Board of Directors may designate any place, either within or without the State of Virginia as the place of meeting for any annual meeting or for any special meeting called by the Board of Directors. If no designation is made or if a special meeting be otherwise called, the place of meeting shall be the registered office of the Corporation in the State of Virginia, provided, however, that if all of the members shall meet at anytime and place either within or without the State of Virginia, and consent to the holding of a meeting, such meeting shall be valid without call or notice, and at such meeting any corporate action may be taken.

Section 4: NOTICE OF MEETINGS. Written or printed notice stating the place, day and hour of any meeting of members shall be delivered, either personally or by mail, to each member entitled to vote at such meeting, not less than ten (10) nor more than sixty (60) days before the date of such meeting, by or at the direction of the President, or the Secretary, or the officers or persons calling the meeting. In case of a special meeting or when required by statute or by these By-Laws, the purposes for which the meeting is called shall be stated in the notice. If mailed, the notice of a meeting shall be deemed delivered when deposited in the United States mail addressed to the member at his address as it appears on the records of the Corporation, with postage thereon prepaid.

Section 5: INFORMAL ACTION BY MEMBERS. Any action required to be taken at a meeting of the members of the Corporation, or any other action which may be taken at a meeting of members, may be taken without a meeting if a consent in writing, setting forth the action so taken, shall be signed by all of the members entitled to vote with respect to the subject matter thereof.

Section 6: QUORUM. The members holding a majority of the votes which may be cast at any meeting shall constitute a quorum at such meeting; provided that a two-thirds (2/3) majority of the votes which may be cast shall be required as a quorum (i) for the annual meeting; or (ii) any special meeting called for the purpose of amending the Corporation's Articles of Incorporation or By-Laws. If a quorum is not present at any meeting of members, a majority of the members present may adjourn the meeting from time to time without further notice.

Section 7: PROXIES. At any meeting of members a member entitled to vote may vote either in person or by proxy executed in writing by the member or by his duly authorized attorney-in-fact. No proxy shall be valid after eleven months from the date of its execution unless otherwise provided in the proxy.

Section 8: NOMINATING COMMITTEE. Before each annual meeting of the members, the President shall appoint a 4-member Nominating Committee (one member of which shall be a board member) for the purpose of preparing a slate of candidates to be:

- a. President
- b. Vice President
- c. Secretary
- d. Treasurer
- e. Public Relations Coordinator
- f. At-Large Class Two Directors

ARTICLE V
Board of Directors

Section 1: GENERAL POWERS. The affairs of the Corporation shall be managed by its Board of Directors.

Section 2: NUMBER, TENURE, QUALIFICATION AND TERM. The number of Directors shall not be less than three (3) and not exceed seventeen (17). The Directors of the Corporation shall be the seven (7) officers of the Corporation elected pursuant to Article VI (whose terms as Directors shall be the same as their term as officers specified in Article VI, Section 2), the Board of Advisors Chairman, as outlined in Article XIV, Section 2, and up to nine (9) At-Large Directors, whose terms shall be two years, staggered. The Music Director and Associate Conductor shall be Class One Directors as set forth in Article 7.1 of the Articles of Incorporation. The remaining Directors shall be Class Two Directors as set forth in Article 7.2 of the Articles of Incorporation. No Class Two Director shall be elected by the members except by the affirmative vote of at least a majority of all votes entitled to be cast in such election by all the members provided, that a super majority shall be required to elect the Music Director and Associate Conductor pursuant to Article VI, Section 1. The term of each officer shall begin August 1 of the year in which the election occurred. The Board of Advisors Chairman shall be elected pursuant to Article XIV, Section 2, for a term beginning at the May meeting of the Board of Advisors.

Section 3: REGULAR MEETINGS. A regular meeting of the Board of Directors shall be held without other notice than this by-law jointly with the annual meeting of members or immediately after, and at the same place as, the annual meeting of members. The Board of Directors may provide by resolution the time and place, either within or without the State of Virginia, for the holding of additional regular meetings of the Board without other notice than such resolution. The Board of Directors shall meet at least every two months.

Section 4: SPECIAL MEETINGS. Special meetings of the Board of Directors may be called by or at the request of the President or Directors constituting no less than fifteen percent (15%) of the Directors then in office. The person or persons authorized to call special meetings of the board may fix any place, either within or without the State of Virginia, as the place for holding any special meeting of the board called by them.

Section 5: NOTICE. Notice of any special meeting of the Board of Directors shall be given at least three (3) days previous thereto by written notice delivered personally or sent by mail or telegram to each Director at his address as shown by the records of the Corporation. If mailed, such notice shall be deemed to be delivered when deposited in the United States mail in a sealed envelope so addressed, with postage thereon prepaid. If notice be given by telegram, such notice shall be deemed to be delivered when the telegram is delivered to the telegraph company. Any Directors may waive notice of any meeting. The attendance of a Director at any meeting shall constitute a waiver of notice of such meeting, except where a Director attends a meeting for the express purpose of objecting to the transaction of any business because the meeting is not lawfully called or convened. Neither the business to be transacted at, nor the purpose of, any regular or special meeting of the board need be specified in the notice or waiver of notice of such meeting, unless specifically required by law or by these By-Laws.

Section 6: QUORUM. A majority of the Directors then in office shall constitute a quorum for the transaction of business at any meeting of the board, provided, that if less than a majority of the Directors are present at said meeting, a majority of the Directors present may adjourn the meeting from time to time without further notice.

Section 7: MANNER OF ACTING. The act of a majority of the Directors present at a meeting at which a quorum is present shall be the act of the Board of Directors, except where otherwise provided by law or by the Articles of Incorporation or by these By-Laws.

Section 8: INFORMAL ACTION BY DIRECTORS. Any action required to be taken at a meeting of the Directors of the Corporation, or any other action which may be taken at a meeting of Directors, may be taken without a meeting if a consent in writing, setting forth the action so taken, shall be signed by all of the Directors entitled to vote with respect to the subject matter thereof.

Section 9: COMPENSATION. The Class Two Directors will serve without compensation. The Board of Directors will fix the compensation of the Class One Directors.

Section 10: VACANCY. Except as provided below, a Director elected to fill a vacancy shall be elected for the unexpired term of his predecessor in office. Any vacancy occurring in the board of directors, including a vacancy created by an increase in the number of authorized directors, may be filled for the remainder of the full terms of office by the affirmative vote of a majority of the Board of Directors except (a) a vacancy caused by the removal of a Director by the members in which event the vacancy shall be filled by the members, and (b) a vacancy in the position of the Music Director or Associate Conductor which shall be filled by the members as set forth hereafter, provided that the Board of Directors has the authority to appoint an interim Music Director or Associate Conductor to serve until the vacancy is filled by the members.

Section 11: REMOVAL. Directors may be removed by majority vote of the members at any duly called meeting of the members except for the greater requirements imposed in Article VI, Section 3 as to the Music Director or Associate Conductor.

ARTICLE VI

Officers

Section 1: OFFICERS. The officers of the Corporation shall be a president, one vice president, a secretary, a treasurer, a Public Relations Coordinator, a Music Director and an Associate Conductor. The President, Vice President, Secretary, Treasurer, and Public Relations Coordinator shall be elected by a majority of the members present and voting. If a majority is not received on the first ballot, a second ballot will be taken between the two candidates for such office receiving the greatest amount of votes. The offices of Music Director and Associate Conductor shall require a super-majority vote as set forth in the succeeding sentence. As to any annual meeting in which the offices of Music Director and Associate Conductor are to be filled (without impairing the validity of other business transacted including the election of the President, Vice President, Secretary, Treasurer, and Public Relations Coordinator) two-thirds (2/3) of the Corporation membership must be in attendance and three-fourths (3/4) of those members present must vote in favor of the offices of Music Director or the Associate Conductor. However, neither appointment nor dismissal of the Music Director or Associate Conductor shall be put before the Association membership except upon the majority vote of the Class Two members of the Board of Directors. Notwithstanding the above (and the terms set forth in Section 2 below), the initial officers of the Corporation, shall be elected by the Board of Directors and shall serve until the first annual meeting at which their replacement is elected. No two offices may be held by the same person.

Section 2: ELECTION AND TERM OF OFFICE. The officers of the Corporation shall be elected prior to the election of the Class Two At-Large Directors. The President, Vice President and Public Relations Coordinator shall be elected for two-year terms in even-numbered years. The Secretary and Treasurer shall be elected for two-year terms in odd-numbered years. The Music Director and the Associate Conductor shall each serve for a term of thirty (30) years beginning at the first annual meeting of the members but subject to earlier removal, however, at any time, with or without cause, pursuant to Article VI, Section 3 of these By-Laws. If the election of officers shall not be held at such meeting, such election shall be held as soon thereafter as conveniently may be held. Vacancies may be filled or new offices created and filled at any meeting of the members. Each officer shall hold office until his successor shall have been duly elected and shall have qualified. The term of each officer shall begin August 1 of the year in which the election occurred.

Section 3: REMOVAL. Any officer may be removed by the members whenever in its judgment the best interests of the Corporation would be served thereby, but such removal shall be without prejudice to the contract rights, if any, of the person so removed. Notwithstanding anything in these By-Laws to the contrary, the Corporation membership must be notified at least 30 days prior to the Corporation membership meeting called to consider the removal or filling of any vacancy with respect to the Music Director or the Associate Conductor. As to such meeting, two-thirds (2/3) of the Corporation membership must be in attendance and three-fourths (3/4) of those members present must vote in favor

of the removal or filling of any vacancy with respect to the Music Director or the Associate Conductor.

Section 4: VACANCIES. A vacancy in any office because of death, resignation, removal, disqualification or otherwise may be filled by the Board of Directors for the unexpired portion of the term. Any vacancy occurring in any office of the Corporation, may be filled for the remainder of the full terms of office by the affirmative vote of a majority of the Board of Directors except (a) a vacancy caused by the removal of an officer by the members in which event the vacancy shall be filled by the members; and (b) a vacancy in the position of the Music Director or Associate Conductor which shall be filled by the members as set forth hereafter, provided that the Board of Directors has the authority to appoint an interim Music Director or Associate Conductor to serve until the vacancy is filled by the members.

Section 5: PRESIDENT. At the first Board of Directors meeting following each election, a Chairman of the Board of Directors shall be elected from among those persons who are members of the Board of Directors. The Chairman of the Board shall preside at all meetings of the members and of the Board of Directors and shall see that orders and resolutions of the Board of Directors are carried into effect. He shall have the power to execute, on behalf of the Corporation, bonds, mortgages and all other contracts and documents, whether or not under the seal of the Corporation, except in cases where the signing and execution thereof shall be expressly delegated by law, by the Board of Directors or by these By-Laws to some other officer or agent of the Corporation. He shall have general powers of supervision and management of the business of the Corporation and shall be the final arbiter of all differences between officers of the Corporation and his decision as to any matter affecting the Corporation shall be final and binding as between the officers of the Corporation, subject only to the Board of Directors of the Corporation. The President shall be the chief executive officer of the Corporation. Within the policies and objectives prescribed by the Board of Directors and under the general supervision of the Board, he shall establish operating procedures for, and administer and direct, all aspects of the Corporation's operating activities. He shall have the power to execute documents where by law the signature of the President is required. In general, he shall have all powers and shall perform all duties usually vested in the office of the President of a corporation, subject to the right of the Board of Directors to delegate powers to other officers or committees of the Corporation, except those powers which may be exclusively conferred by law upon the office of the President.

Section 6: VICE PRESIDENT. In the absence of the President or in the event of his inability or refusal to act, the Vice President shall perform the duties of the President, and when so acting, shall have all the powers of and be subject to all the restrictions upon the President. The Vice President shall perform such other duties as from time to time may be assigned to them by the President or by the Board of Directors.

Section 7: TREASURER. If required by the Board of Directors, the Treasurer shall give a bond for the faithful discharge of his duties in such sum and with such surety or sureties as the Board of Directors shall determine. He shall: have charge and custody of and be

responsible for all funds and securities of the Corporation; receive and give receipts for moneys due and payable to the Corporation from any source whatsoever, and deposit all such moneys in the name of the Corporation in such banks, trust companies or other depositories as shall be selected in accordance with the provisions of Article VII of these By-Laws; and in general perform all the duties incident to the offices of Treasurer and such other duties as from time to time may be assigned to him by the President or by the Board of Directors.

Section 8: SECRETARY. The Secretary shall keep minutes of the meetings of the members of the Board of Directors in one or more books provided for the purpose; see that all notices are duly given in accordance with the provisions of these By-Laws or as required by law; be custodian of the corporate records; keep a register of the post office address of each member which shall be furnished to the Secretary by such member; and in general perform all duties incident to the office of Secretary and such other duties as from time to time may be assigned to him by the President or by the Board of Directors.

Section 9: PUBLIC RELATIONS COORDINATOR. The Public Relations Coordinator will promote and publicize the activities of the Corporation. All press releases on the Corporation's activities must be approved by the Public Relations Coordinator, President, or Music Director before being released to the press, radio, TV, or other public organizations. All audio and video recordings of the Concert Band and its ensembles must be reviewed and approved by the Music Director before being released.

Section 10: MUSIC DIRECTOR. The Music Director is responsible for the artistic focus, musical development and performance quality of the Concert Band and its ensembles. The Music Director evaluates the technical and musical skills of potential members of the Concert Band; conducts auditions if necessary; determines seating within sections; determines the appropriate size of the Concert Band and its individual sections; selects music for rehearsal and performance; in coordination with the Board of Directors, schedules performances of the Concert Band and determines performance programs; periodically evaluates the musical skills and programming of the small ensembles to assure they appropriately represent the Association; and in coordination with the Associate Conductor, conducts the rehearsals and performances of the Concert Band.

Section 11: ASSOCIATE CONDUCTOR. In the absence of the Music Director or in the event of his inability to act, the Associate Conductor shall perform the duties of the Music Director, and when so acting, shall have the powers to and be subject to all the restrictions upon the Music Director. The Associate Conductor shall perform such other musical leadership duties as may be appropriately assigned by the Music Director to the benefit of the Concert Band and its ensembles.

Section 12: COMPENSATION. No officer, excepting the Music Director and the Associate Conductor, shall receive compensation, either directly or indirectly, without approval of the membership as set forth in Article VII below. The Music Director and Associate Conductor's compensation shall be set by the Board of Directors subject, however, to change by the membership.

ARTICLE VII
Interested Directors and Officers

Section 1: No contract or transaction between the Corporation and one or more of its Directors or officers, or between the Corporation and any other corporation, partnership, association, or other organization in which one or more of its Directors or officers are Directors or officers, or have a financial interest, shall be entered into unless:

- (a) The material facts as to his relationship or interest and as to the contract or transaction are disclosed or are known to the members, and the members in good faith authorize the contract or transaction by the affirmative votes of two-thirds (2/3) of the disinterested members, even though the disinterested members be less than a quorum.

Common or interested members may be counted in determining the presence of a quorum at a meeting of the members. The Board of Directors are not empowered under these By-laws to approve such a transaction, but shall refer such question to the members for a vote thereon.

ARTICLE VIII
Indemnification of Directors and Officers

(a) The Corporation shall indemnify each Director and each officer who was or is a party or is threatened to be made a party to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative (other than an action by or in the right of the Corporation) by reason of the fact that he is or was a Director or officer of the Corporation, or is or was serving at the request of the Corporation as a Director or officer of another corporation, partnership, joint venture, trust or other enterprise, against expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred by him in connection with such action, suit or proceeding if he acted in good faith and in a manner he reasonably believed to be in or not opposed to the best interests of the Corporation, and, with respect to any criminal action or proceedings, had no reasonable cause to believe his conduct was unlawful. The termination of any action, suit or proceeding by judgment, order settlement, conviction, or upon a plea of nolo contendere or its equivalent, shall not, of itself, create a presumption that the person did not act in good faith and in a manner which he reasonably believed to be in or not opposed to the best interests of the Corporation, and, with respect to any criminal action or proceeding, had reasonable cause to believe that his conduct was unlawful.

(b) The Corporation shall indemnify each Director and each officer who was or is a party or is threatened to be made a party to any threatened, pending or completed action or suit by or in the right of the Corporation to procure a judgment in its favor by reason of the fact that he is or was a Director or officer of the Corporation, or is or was serving at the request of

the Corporation as a Director or officer of another corporation, partnership, joint venture, trust or other enterprise against expenses (including attorneys' fees) actually and reasonably incurred by him in connection with the defense or settlement of such action or suit if he acted in good faith and in a manner he reasonably believed to be in or not opposed to the best interests of the Corporation and except that no indemnification shall be made in respect of any claim, issue or matter as to which such Director or officer shall have been adjudged to be liable for negligence or misconduct in the performance of his duty to the Corporation unless and only to the extent that the court in which such action suit was brought shall determine upon application that, despite that adjudication or liability but in view of all the circumstances of the case, such Director or officer is fairly and reasonably entitled to indemnity for such expenses which such court shall deem proper.

(c) The Corporation shall indemnify each Director and each officer or employee who is held to be a fiduciary under any employee pension or welfare plan or trust of the Corporation or any of its divisions and who was or is a party or is threatened to be made a party to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative (other than an action by or in the right of the Corporation) by reason of the fact that he is or was such a fiduciary and was serving as such at the request of the Corporation, against expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred by him in connection with such action, suit or proceeding for any breach of any of the responsibilities, obligations or duties imposed upon fiduciaries by the Employee Retirement Income Security Act of 1974 and any amendments thereto, if he acted in good faith and in a manner he reasonably believed to be in or not opposed to the best interests of such plan or trust, and, with respect to any criminal action or proceeding, had no reasonable cause to believe his conduct was unlawful. The termination of any action, suit or proceeding by judgment, order, settlement, conviction, or upon a plea of nolo contendere or its equivalent, shall not, of itself, create a presumption that the person did not act in good faith and in a manner which the reasonably believed to be in or not opposed to the best interests of such plan or trust, and, with respect to any criminal action or proceeding, had reasonable cause to believe that his conduct was unlawful. The provisions of all the following paragraphs of this Article relating to Directors, officers, employees or agents shall apply also to Directors, officers or employees held to be fiduciaries under this paragraph (c), specifically including the power of the Corporation (under paragraph (g)) to purchase and maintain insurance on behalf of such fiduciaries.

(d) To the extent that a person who is or was a Director, officer, employee or agent to the Corporation, or of any other corporation, partnership, joint venture, trust or other enterprise with which he is or was serving in such capacity at the request of the Corporation, has been successful on the merits or otherwise in defense of any action, suit or proceeding referred to in paragraphs (a) and (b) of this Article, or in defense of any claim, issue or matter therein, he shall be indemnified against expenses (including attorneys' fees) actually and reasonably incurred by him in connection therewith.

(e) Any indemnification under paragraphs (a) and (b) of this Article (unless ordered by a court) shall be made by the Corporation only as authorized in the specific case upon a determination that indemnification of the Director or officer is proper in the circumstances because he has met the applicable standard of conduct set forth in paragraphs (a) and (b). Such determination shall be made (1) by the Board of Directors by a majority vote of a quorum consisting of Directors who were not parties to such action, suit or proceeding, or (2) if such a quorum is not obtainable, or, even if obtainable but a quorum of disinterested Directors so directs, by independent legal counsel in a written opinion, or (3) by the members.

(f) The indemnification provided by this Article shall not be deemed exclusive of any other rights to which a Director or officer seeking indemnification may be entitled under any statutes, provision in the Corporations' articles of incorporation, by-law, agreement, vote of members or disinterested Directors or otherwise, both as to action in his official capacity and as to action in another capacity while holding such office, and shall continue as to a person who has ceased to be a Director or officer and shall inure to the benefit of the heirs, executors and administrators of such a person.

(g) The Corporation shall have power to purchase and maintain insurance on behalf of any person who is or was a Director, officer, employee or agent of the Corporation, or is or was serving at the request of the Corporation as a Director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise against any liability asserted against him and incurred by him in any such capacity, or would have the power to indemnify him against such liability under the provisions of this Article.

(h) For purposes of this Article, references to "the Corporation" shall include, in addition to the resulting Corporation, any constituent corporation (including any constituent of a constituent) absorbed in a consolidation or merger which, if its separate existence had continued, would have had power and authority to indemnify its Directors, officers, and employees or agents, so that any person who is or was a Director, officer, employee or agent of such constituent corporation, or is or was serving at the request of such constituent corporation as a Director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise, shall stand in the same position under the provisions of this Article with respect to the resulting or surviving corporation as he would have with respect to such constituent corporation if its separate existence had continued.

(i) The invalidity or unenforceability of any provision in this Article shall not affect the validity or enforceability of the remaining provisions of this Article.

ARTICLE IX

Contracts, Checks, Deposits, Funds

Section 1: CONTRACTS. The Board of Directors may authorize any officer or officers, agent or agents of the Corporation, in addition to the officers so authorized by these By-Laws, to enter into any contract or execute and deliver any instrument in the name of and on behalf of the Corporation, and such authority may be general or confined to specific instances.

Section 2: CHECKS, DRAFTS, ETC. All checks, drafts or other orders for the payment of money, notes or other evidences of indebtedness issued in the name of the Corporation, shall be signed by such officer or officers, agent or agents of the Corporation and in such manner, as shall from time to time be determined by resolution of the Board of Directors. In the absence of such determination by the Board of Directors, such instruments shall be signed by the Treasurer and countersigned by the President or a vice president of the Corporation.

Section 3: 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 4: GIFTS. The Board of Directors or the President may accept on behalf of the Corporation any contribution, gift, bequest or devise for the general purposes or for any special purpose of the Corporation.

ARTICLE X

Books and Records

The Corporation shall keep correct and complete books and records of account and shall also keep minutes of the Proceedings of its members and Board of Directors, and shall keep at the registered or principal office a record giving the names and addresses of the members entitled to vote. All books and records of the Corporation may be inspected by any member or his agent or attorney for any proper purpose at any reasonable time.

ARTICLE XI

Fiscal Year

The fiscal year of the Corporation shall end on the last day of August in each year.

ARTICLE XII

Seal

The Board of Directors may provide a corporate seal in such form as the Directors designate.

ARTICLE XIII

Waiver of Notice

Whenever any notice whatever is required to be given under the provisions of the Virginia Nonstock Corporation Act or under the provisions of the Articles of Incorporation or by the By-Laws of the Corporation, a waiver thereof in writing signed by the person or persons entitled to such notice, whether before or after the time stated therein, shall be deemed equivalent to the giving of such notice.

ARTICLE XIV

Committees

Section 1: COMMITTEES OF DIRECTORS. The Board of Directors, by resolution adopted by a majority of the Directors in office, may designate one or more committees, each of which shall consist of two or more Directors, which committees, to the extent provided in said resolution and not restricted by law, shall have and exercise the authority of the Board of Directors in the management of the Corporation; but the designation of such committees and the delegation thereto of authority shall not operate to relieve the Board of Directors, or any individual Director, of any responsibility imposed upon it or him by law.

Section 2: BOARD OF ADVISORS. At the discretion of the Board of Directors, a Board of Advisors shall be formed to furnish guidance and support to the Board of Directors in promoting the purposes of the Association according to the Constitution. The Board of Directors shall provide the Board of Advisors guidance regarding responsibilities and organizational matters. The Board of Advisors shall elect its own officers at its May meeting. The Chairman of the Board of Advisors shall serve on the Board of Directors.

Section 3: OTHER COMMITTEES. Other committees not having and exercising the authority of the Board of Directors in the Corporation may be designated by a resolution adopted by a majority vote of the Directors present at a meeting at which a quorum is present. Except as otherwise provided in such resolution, members of each such committee need not be members of the Corporation, the President of the Corporation shall appoint the members thereof, and each such committee shall have at least one member who is an officer of the Corporation. Any member thereof may be removed by the person or persons authorized to appoint such member whenever in their judgment the best interests of the Corporation shall be served by such removal.

Section 4: TERM OF OFFICE. Each member of a committee shall continue as such until the next annual meeting of the members of the Corporation and until his successor is appointed, unless the committee shall be sooner terminated, or unless such member be removed from such committee, or unless such member shall cease to qualify as a member thereof.

Section 5: CHAIRMAN. One member of each committee shall be appointed chairman.

Section 6: VACANCIES. Vacancies in the membership of any committee may be filled by appointments made in the same manner as provided in the case of the original appointments.

Section 7: QUORUM. Unless otherwise provided in the resolution of the Directors designating a committee, a majority of the whole committee shall constitute a quorum and the act of a majority of the members present at a meeting at which a quorum is present shall be the act of the committee.

Section 8: RULES. Each committee may adopt rules for its own government not inconsistent with these By-Laws or with rules adopted by the board of Directors.

ARTICLE XV
Amendments to By-Laws

These By-Laws may be altered, amended or repealed and new By-Laws may be adopted by a three-quarters (3/4) majority of the members present at any regular meeting or at any special meeting, provided that at least thirty (30) days written notice is given of intention to alter, amend or repeal or to adopt new By-Laws at such meeting. The Board of Directors shall have no authority to alter or amend or repeal these By-laws.

ARTICLE XVI
Ensembles

Section 1: FORMATION. The formation of ensembles comprising members of the Concert Band is appreciated and encouraged, as are performances by such groups. Whenever such a group communicates, in any manner, its affiliation with the Corporation, the following rules apply:

- a. Any new ensemble that is formed under the name of The City of Fairfax Band must first audition before the Music Director or a person designated by the Music Director, before the group can perform for any function in the name of The City of Fairfax Band.
- b. A list of permanent members of the ensemble must be submitted to the Music Director.
- c. If the ensemble has a change in personnel of 50% or more, the ensemble may be reauditioned.

- d. Ensemble leaders will provide current information on schedules and performances to a coordinator designated by the President.
- e. The Music Director may waive any or all of the above requirements.

Section 2: PRIVILEGES. Only groups which follow the rules established in Article XVI, Section 1, shall have the privilege of:

- a. The use of the City of Fairfax Band's name (e.g., "The City of Fairfax Band Brass Choir").
- b. Display of the City of Fairfax Band banner or placard.
- c. Financial assistance with the purchase of supplies, music, etc.
- d. Performing opportunities obtained through the Concert Band and the City of Fairfax.
- e. Free rehearsal rooms and discounted rates for use of auditoriums.
- f. Per person injury insurance policy, covered by the City of Fairfax Band Association, Inc.
- g. Promotional materials and mailings made available by the City of Fairfax.

Section 3: PROHIBITIONS. Performances of partisan political activities are to be avoided unless it is determined by the Board of Directors, and if necessary the City Council, that the performance sufficiently enhances the Corporation's reputation in the Northern Virginia area.

Section 4: GUIDELINES. Whenever an ensemble is recognized as officially representing "The City of Fairfax Band" the following guidelines apply:

- a. Ensembles participating in events sponsored by the City of Fairfax may not receive compensation from the City of Fairfax, but compensation may be paid by the City for guest artists to enhance a City of Fairfax function, with prior approval and cooperation by City officials.
- b. In spoken and printed announcements, all ensembles shall give credit to The City of Fairfax Band. For example: "Name of ensemble - An Ensemble of The City of Fairfax Band."
- c. Ensembles will share a percentage of all honoraria received for performances with the Corporation. This percentage will be established annually by the Board of Directors in consultation with the ensemble leaders, and shall not exceed twenty five percent (25%).
- d. All honoraria and expense money received by ensembles must be deposited with the Treasurer, who will make any necessary disbursements. The ensemble may direct the Treasurer to distribute its share or portion thereof, to pay guest artists, to finance the purchase of music, equipment, or uniforms, or to distribute funds as agreed among its

members as compensation for musical engagements. Ensemble leaders must notify ensemble members before the day of a performing engagement how the ensemble's share is to be disbursed.

- e. If ensemble members are to be paid for performing, each member shall be considered an individual private contractor (not an employee) and the ensemble leader shall submit to the Treasurer a voucher requesting payment for services rendered.
- f. The Corporation portion of income provided from ensemble performances is used to support the total operation of the Corporation. Requests for use of such funds for ensemble expenses must be made directly to the Board of Directors. All such expenditures must receive prior approval before costs are incurred.
- g. Music and equipment purchased with Corporation funds for ensemble use must be processed by the Librarian and are the property of the Corporation, to be stored with other such holdings when not in use. However, ensembles may also use music and equipment paid for and made available by individual members. Such music and equipment remains private property. Cleaning of uniforms is the responsibility of the members using them.
- h. A member of an ensemble will be considered a member of the Corporation in good standing if he or she fulfills the conditions and duties of membership as stated in the Constitution and By-Laws.

ARTICLE XVII

Miscellaneous

Section 1: CHOICE OF LAW. Any dispute arising under these By-Laws, or a member's membership in the Corporation, shall be determined and governed by the laws of the Commonwealth of Virginia. All members hereby consent to the personal jurisdiction and the sole and exclusive venue in the Fairfax Circuit Court, Commonwealth of Virginia, if any suit is brought under the terms of, arising out of, or relating to these By-Laws or a member's membership in the Corporation.

Section 2: HEADINGS. The captions and headings of these By-Laws are intended for convenience and reference only, do not affect the construction or meaning of these By-Laws and further do not inform a party of the covenants, terms or conditions of these By-Laws or give full notice thereof.

Section 3: SEVERABILITY. Whenever there is any conflict between any provision of these By-Laws and any present or future statute, law, ordinance or regulation contrary which would cause to invalidate such provision, the latter shall prevail, but in such event the provision of these By-Laws thus affected shall be curtailed and limited to the extent necessary to bring it within the requirement of the law. In the event that any of the provisions of these By-Laws, or any application thereof, is declared to be invalid, illegal,

unenforceable, inoperative or of no effect by any court of competent jurisdiction, the validity, legality and enforceability of the remaining provisions of these By-Laws, and any other application thereof, shall continue to apply with full force and effect and shall not in any way be affected or impaired thereby.

Section 4: CONCERTS. Performances by the Concert Band shall require the approval of the Board of Directors and adequate representation of instrumentalists as deemed necessary by the Music Director.

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