

AMENDED AND RESTATED BYLAWS ~~of~~  
OF  
AMERICAN BIRDING ASSOCIATION, INC.  
~~(as amended as of October 28,~~  
~~2016)~~ **ARTICLE I: NAME AND**  
**ENTITY**

I. OFFICES

1. Principal Office.

The ~~NAME OF THE CORPORATION SHALL BE~~ “principal office of American Birding Association, Inc.” (~~hereinafter referred to as~~ the “Association”-) shall be located at such place as the board of directors may from time to time determine.

2. Other Offices.

The board of directors or officers of the Association ~~is a Texas not-for-profit charitable corporation that seeks to inspire all people to enjoy and protect wild birds~~ may establish such other offices as they may from time to time determine.

II. **ARTICLE II: MEMBERSHIP**

1. ~~Section 1.~~ Members.

The members of the Association shall be those persons or entities satisfying the conditions of membership set forth in the articles of incorporation of the Association (the “Articles”) and these Bylaws. Any person interested in the purposes and objectives of the Association is eligible ~~for to~~, and shall ~~obtain, membership~~ become a member upon the payment of any dues payable to the Association.

~~Section 2~~ To the maximum extent permitted by law, members do not have any voting rights, governance rights, or membership rights except as expressly set forth in the articles of incorporation or these Bylaws.

2. Classes of Membership.

Membership classes shall ~~be “individual” and “joint” and have~~ the characteristics, qualifications, rights and limitations ~~thereof shall be~~ determined from time to time by the board of directors-

~~Section 3~~ or the officers, including which classes are entitled to receive print and/or digital versions of any or all of the Association’s publications. On any matter submitted to a vote of the members, all members will vote together as a single class, and no membership class shall entitle any member to more than one vote. For clarification, a

joint membership will be deemed to be two members for voting purposes.

### 3. Dues.

(a) **Classes.** Dues for ~~the classes~~each class of membership and any subdivisions of asuch class as established from time to time by the board of directors shall be payable (i) at the time of application, for membership (which process for application for membership shall be governed by procedures established by the officers) and (ii) thereafter upon expiration of the period of the respective applicable membership~~obtained~~. The board of directors may at its discretion, from time to time, offer one or more classes of membership without dues associated.

(b) **Nonpayment.** ~~A~~The Association may suspend any member, and their membership, and the corresponding rights and privileges thereof, ~~shall be suspended~~if the membership dues payment is not received by the Association within 60 days of the time it is becomes payable, and the Association is not obligated to provide notice of such suspension to any member. Suspended members are not considered to be in good standing and are not entitled to vote on any matter submitted to a vote of the members. If a suspended member subsequently pays all dues payable in full, said then that member shall will no longer be suspended and will be in good standing-

~~Section 4~~ as of the time such dues payment is received by the Association.

### 4. Meetings of the Members.

(a) **Limited Voting Rights.** Unless required by law or as otherwise expressly set forth herein, members have no right to vote on any matter except (1) voting for the election of directors at the annual meeting of the members of the Association for that purpose, (2) any change to what constitutes "the ABA Area", (3) amendments to the Bylaws of the Association, and (4) voting on any other matter that the board of directors decides, in its absolute discretion, to submit to a vote of the members. Where a class of membership is offered without dues associated, the board of directors shall determine voting rights, if any, associated with such class of membership.

(b) ~~(a)~~**Annual Meeting.** ~~The~~An annual meeting of the members of the Association for the election of directors shall be held each year at such time and place and on such date as the board of directors may determine. Any other official business may be transacted at the annual meeting.

(c) ~~(b)~~**Special MeetingMeetings.** Special meetings of the members of the Association for any purpose or purposes may be called by the Chair of the board of directors, a majority of the board of directors, or by a written ~~petition~~request signed by at least ~~ten percent (10%)~~ of the members in good standing, calculated as of December 31 of the year preceding the date of the special meeting. Business

to be transacted at any special meeting of the members is limited to the purposes stated in the notice of meeting.

- (d) ~~(e)~~ **Notice of Meetings.** Notice of any meeting of the members stating the place, date, and hour of the meeting shall be sent by electronic mail, or via publication on the Association's web site, not less than ~~ten (10)~~ nor more than ~~sixty (60)~~ days prior to the date of the meeting, to each member in good standing. In the case of a special meeting, the notice shall state the purpose(s) for which it is being called and the person(s) by whom it is called. ~~All~~ Notwithstanding the foregoing, all notices may be published in any scheduled print or electronic publication of the Association, ~~in lieu of mailing individual notices. If mailed, the notice of any meeting shall be deemed delivered when deposited in the United States Mail, addressed to each member at the address that appears on the records of the Association, with postage thereon prepaid.~~
- (e) ~~(d)~~ **Qualification of Voters.** ~~All members~~ Each member in good standing shall be entitled to one vote on each matter submitted to a vote of the members at any ~~regular~~ annual or special members' meeting. ~~A joint membership is entitled to two (2) votes, but no individual may cast more than one (1) of the joint votes.~~
- (f) ~~(e)~~ **Quorum.** One hundred ~~(100)~~ members in good standing, present in person or by proxy, shall constitute a quorum at any ~~regular~~ annual or special meeting of the members. In the event that a quorum is not present at any meeting, the presiding officer of the meeting or the members present at such meeting may adjourn the meeting from time to time, until a quorum is present. Notice need not be given of any such adjourned meeting if the time and place thereof are announced at the meeting at which the adjournment is taken. At any such adjourned meeting any business may be transacted that might have been transacted at the meeting as originally noticed.
- (g) ~~(f)~~ **Proxies.** ~~At any meeting of the Association, every~~ Each member in good standing may ~~vote by proxy executed in writing by the~~ authorize another person or persons to act for such member (at a meeting or his duly authorized attorney-in-fact ~~by written consent) by proxy. Such~~ A proxy ~~shall be~~ is valid only for the meeting and ~~issues~~ business for which it is given, unless otherwise provided in the proxy ~~or bylaw. The board of directors shall cause a form of proxy to be mailed to each member in good standing. The form of~~ A proxy is irrevocable if it states that it is irrevocable and if, and only as long as, it is coupled with an interest sufficient in law to support an irrevocable power. A member may revoke any proxy ~~shall be sent~~ which is not ~~less than ten (10) nor more than sixty (60) days prior to the date of~~ irrevocable by attending the meeting, and shall contain the issues which will be voting in person or by delivering to the Secretary of the Association a revocation of the proxy or a new proxy bearing a later date.

(h) Voting. At all meetings of members for the election of directors at which a quorum is present, a plurality of the votes cast shall be sufficient to elect. All other elections and questions presented to the members ~~for vote at the~~ meeting ~~that are known at the time the~~ at which a quorum is present shall, unless otherwise provided by the Articles, these bylaws, or applicable law, be decided by the affirmative vote of the holders of a majority of the members which are present in person or by proxy ~~is prepared and mailed. Any member seeking to bring an issue before a meeting~~ entitled to vote thereon. On any matter submitted to a vote of the members ~~shall submit a written notice thereof to the Association's executive offices not less than one hundred and twenty (120) days nor more than one hundred and fifty (150) days prior to the annual meeting, the date of which shall be fixed by the board of directors not less than one hundred eighty (180) days in advance. No member shall be allowed to use the funds of the Association to solicit proxies from the members, either directly or indirectly. Any member who seeks to solicit proxies shall submit the proposed proxy material to be delivered to the members of the Association and prepay the mailing cost for the proxy material.~~

~~Section 5-~~, all members will vote together as a single class, and no membership class shall entitle any member to more than one vote. For clarification, a joint membership will be deemed to be two members for voting purposes.

(i) Participation in Meetings by Video Conference. Members may participate in a meeting thereof by means of conference telephone, video conference, or other communications equipment by means of which all persons participating in the meeting can hear each other, and participation in a meeting by such means shall constitute presence in person at such meeting.

## 5. Termination of Membership.

A membership may be terminated by one of the following methods: (a) failure of the member to pay the renewal dues ~~when~~ within 120 days of the same are due and date such dues become payable, ~~or (b)~~

(b) the filing with the Secretary of a written notice of termination by the member, or (c) with or without cause by a majority of the board of directors, in its absolute discretion. The event of termination shall not entitle any member to a refund of dues and shall not relieve any member of any obligation to pay unpaid membership dues. The board of directors shall have the right to refuse to accept payment of membership dues from any person. Terminated members, or individuals refused into membership, shall not be considered in good standing and shall not be entitled to vote.

## III.

### ~~ARTICLE III-~~ BOARD OF DIRECTORS

#### 1. ~~Section 1.~~ Powers.

The direction, policies, management and budgets of the Association shall be established by its board of directors and executed by its officers and employees. The board of directors shall have oversight responsibility to ensure that its direction, policies, management and budgets are implemented and that the Association is being properly managed.

~~Section 2~~ Members of the Advisory Committee are not directors as the term is used herein, but may attend meetings of the board of directors.

## 2. **Qualifications.**

All members of the Association in good standing and over the age of ~~eighteen~~ (18) years are eligible to serve as directors. ~~Criteria~~ Other criteria and standards for ~~board~~ director qualification shall be established by the ~~Board Governance~~ Nominating Committee. No ~~board member~~ director shall have a conflict of interest with the Association.

## 3. **~~Section 3.~~ Number, Term of Office and Voting.**

- (a) **Number.** The board of directors shall consist of no fewer than nine ~~(9)~~ nor more than ~~twenty-one~~ (21) members, each of whom shall be elected by the members of the Association to serve a three-year term. Within these limits, the number of directors at any given time shall be ~~set~~ fixed from time to time by resolution of the board of directors. No reduction of the authorized number of directors shall have the effect of removing any director prior to the expiration of the director's term of office.
- (b) **Terms.** ~~There~~ Each director shall be ~~three groups of directors arranged so one group is elected each succeeding year. At the expiration of the term of office of each group of directors, the term of each new group will be a three year period commencing upon election by the members. All directors shall~~ elect to hold office for ~~said~~ a three-year term or until their ~~successors shall have been elected. The term of any director whose board position will be discontinued shall end on the date of the annual meeting in the year during which their term expires~~ respective successor is duly elected and qualified. No person may serve as director longer than ~~nine~~ three consecutive ~~years~~ three-year terms. If a director is elected or appointed to fill a vacancy for an unexpired term in accordance with Section 5 below, the unexpired term shall not count against such director's term limit. If a director is elected or appointed to fill a vacancy resulting from an increase in the size of the board of directors in accordance with Section 5 below, that director's initial term will continue until the expiration of three years from the annual meeting for the election of directors at which such director.
- (c) **Election.** The ~~Board Governance~~ Nominating Committee shall recommend candidates for nomination to the ~~position~~ board of ~~director~~ directors and submit the nominations to the board of directors not less than ~~sixty~~ (60) days prior to the

annual meeting of the ~~membership~~members of the Association at which the election ~~for~~of directors of the Association will take place. The board of directors shall determine the nominees, and the Secretary ~~of the Association~~ shall cause the names of the nominees for directors of the board of directors to be ~~published to the members of the Association not less than ten (10) nor more than sixty (60) days prior to~~included in the ~~annual~~notice of meeting of the Association.

~~Section 4~~members.

4. **Chair & Vice Chair of the Board of Directors.**

- (a) **Chair.** The Chair of the board of directors shall preside at all meetings of the members of the Association and meetings of the board of directors and its Executive Committee and, in general, shall perform all duties incident to the office of the Chair and such other duties as may be prescribed by the board of directors from time to time.
- (b) **Vice Chair.** In the absence of the Chair of the board of directors, or in event of the Chair's inability or refusal to act, the Vice Chair (or in the event there be more than one Vice Chair, the longest tenured Vice Chair in the order of ~~their~~ election) shall perform the duties of the Chair, and when so acting, shall have all the powers of, and be subject to the restrictions upon, the Chair. Any Vice Chair shall perform such other duties as from time to time may be assigned by the Chair or by the board of directors.
- (c) **Election of Chair and Vice Chair.** The ~~Chair of the board shall appoint, with the approval of the board, a nominating committee for the purpose of proposing~~Nominating Committee shall propose candidates for the ~~position~~positions of Chair and Vice Chair of the board. ~~The committee shall consist of three or more directors, and. Such recommendations shall make its report~~be submitted to the board of directors not less than ~~thirty (30)~~ days prior to the meeting at which the individuals nominated shall be proposed for election. The Chair and Vice- Chair shall serve a two-year term upon election unless a shorter term is prescribed by the board of directors or in the event of the expiration of their lengthterm of service as ~~a director.~~

~~Section 5~~directors.

5. **Vacancies.**

Any ~~vacancy occurring on the board of directors by reason of~~vacancies in any directorship resulting by reason of the death, resignation, retirement, removal or disqualification of any director, or any newly-created directorships resulting from an increase in the authorized number of directors ~~shall,~~ may be filled by ~~at~~the affirmative vote of a majority of the ~~members at~~directors remaining in office, although less than a quorum. Any director so chosen shall hold office until the next annual meeting

~~following of the increase. A vacancy caused by members, and, if elected to the departure board of a directors at that meeting, then that director between annual meetings may be filled's term will continue for the remainder of the unexpired term of the director who no longer holds the vacancy by a vote of the majority of directors then in office.~~

~~Section 6~~ position, or until a successor is elected and qualified.

## 6. Compensation.

The directors of the Association shall receive no compensation for their services as directors, but may be reimbursed for out-of-pocket expenses ~~reasonably~~ incurred by them in the performance of their duties. ~~A director may be compensated for services rendered to the Association in a capacity other than as director, after approval of said services and/or charges by the Executive Committee or by a majority of the board in attendance at any board meeting, the interested director abstaining.~~

## 7. ~~Section 7.~~ Meetings of the Board of Directors.

- (a) **Regular Meetings.** The board of directors shall hold at least one regular meeting in each calendar year without call or notice at a time and place to be determined at its discretion.
- (b) **Special Meetings.** Special meetings of the board of directors ~~shall be held whenever and wherever~~ for any purpose or purposes may be called at any time by the Chair of the board of directors, ~~The~~ the Executive Committee, or by five ~~(5)~~ or more directors.
- (c) **Notice.** Notice of each meeting of the board of directors, stating the place, date and hour of the meeting, and, in the case of special meetings, the purpose or purposes therefore, shall be ~~sent~~ given to each director ~~not in person, by telephone, by electronic mail, or other means of electronic transmission no~~ less than ~~seven (7) nor more than fifty (50) days~~ 48 hours prior to the date commencement of ~~the~~ such meeting. Notice of ~~any special~~ a meeting ~~may be in writing, delivered personally or sent by mail, email or facsimile, to each director at their address as shown in of the records board of the Association, or by telephone call, provided such telephone call is directly received by the director. 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 is given by facsimile, such notice shall be deemed to be delivered when the facsimile is sent and confirmation of receipt is received by the facsimile sender. Any director may waive notice of any meeting. The attendance of a director at any meeting shall constitute~~ directors need not be given to any director who signs a waiver of notice of such, whether before or after the meeting, except where a director or who attends at the meeting for a purpose other than the express purpose of objecting at the beginning of the meeting to the transaction of



any business because the meeting is not lawfully called ~~or~~and convened. All such waivers, consents and approvals shall be filed with the corporate records or made a part of the minutes of the meetings.

**(d) Quorum.** A quorum shall consist of at least ~~one~~half (1/2) of the members of the board of directors, ~~present in person.~~

~~(e) Proxies. At any meeting of the board of directors, any director may vote by proxy, executed in writing by the director. Such proxy shall be valid only for the meeting and issues for which it is given. No proxy shall be valid after three months from the date of its execution.~~

**(e) Vote.** Except as otherwise required by law, the Articles or these Bylaws, the affirmative vote of a majority of the directors present at any meeting of the board of directors at which a quorum is present shall be the act of the board of directors.

**(f) Adjournment.** ~~(f)~~ A majority of the directors present at any meeting, whether or not a quorum is present, may adjourn that meeting to another time and place without further notice. At any adjourned meeting at which a quorum is present, any business may be transacted that might have been transacted at the meeting as originally called.

## **Section 8.**

**(g) Participation in Meetings by Video Conference.** Members of the board of directors, or any committee designated by the board of directors, may participate in a meeting thereof by means of conference telephone, video conference, or other communications equipment by means of which all persons participating in the meeting can hear each other, and participation in a meeting by such means shall constitute presence in person at such meeting.

**(h) Regulations.** To the extent consistent with applicable law, the Articles and these Bylaws, the board of directors may adopt such rules and regulations for the conduct of meetings of the board of directors and for the management of the affairs and business of the Association as the board of directors may deem appropriate.

## **8. Action without a Meeting.**

1. Unless otherwise restricted by the Articles or these Bylaws, any action required or permitted to be taken at any meeting of the board of directors, or of any committee thereof, may be taken without a meeting, without prior notice, and without a vote, if signed by three quarters (3/4) of the total number of directors or committee members necessary to take that action at a meeting at which all of the directors or committee members are present and voting. The consent must state the date of each director's or committee member's signature. Prompt notice of the taking of an action by directors or a



committee without a meeting by less than unanimous written consent shall be given to each director or committee member who did not consent in writing to the action.

9. **Committees of the Board.**

2. Except as otherwise provided herein, the board of directors may appoint one or more committees of the board of directors, with each committee to consist of at least two directors. A majority of the members of any such committee must be directors. Except as otherwise provided herein or as required by law, the board of directors may delegate to any committee of the board of directors any of the authority of the board of directors.

(a) **Executive Committee.** ~~The~~ To the fullest extent permitted by law, the Executive Committee shall implement the responsibilities and authority of the board of directors on an interim basis between meetings of the board of directors. ~~All actions of the executive committee shall be subject to the approval and ratification by the board.~~ The committee shall consist of at least four directors, who shall be the Chair of the board of directors and no fewer than three other directors appointed by the ~~Chair of the board and approved by the board.~~ ~~The Chair of the board may also appoint to the committee, on an ad hoc and non-voting basis, any member with particular knowledge or expertise to serve for a specific purpose, the duration of such service to be limited to that required for such purpose, subject to the prior approval of the board.~~

~~(b) Checklist Committee.~~ ~~The Checklist committee shall assemble for publication, a master checklist of the birds of the ABA Area. For purposes of the checklist, the "ABA Area" shall be defined as the continental United States (including the District of Columbia), Hawaii, Canada, St. Pierre and Miquelon, and adjacent waters to a distance of 200 miles from land or half the distance to a neighboring country, whichever is less. In the western Gulf of Mexico, the latitude of the Mexican border at the coast shall be taken as the southern limit offshore. The checklist shall be revised from time to time by the committee, and shall serve as the basis for all ABA Area Life lists and other types of lists recognized by the Association for areas that include, or are included by the ABA Area as delineated herein. The committee shall consist of five or more members and shall file its report annually with the~~ board of directors.

~~(c) Recording Standards and Ethics Committee.~~ ~~The Recording Standards and Ethics Committee shall establish and amend the rules and procedures for the submission to, and publication by, the Association, of both bird lists and Big Day Reports, and shall be responsible for the wording of the Association Code of Birding Ethics, and will address policy concerns regarding issues of birding ethics as they apply to the Association. In submitting such lists or reports a member shall be required to adhere to the decisions of this committee as approved by the board. The committee shall consist of three or more members.~~

(b) ~~(d)~~ **Board — Governance Nominating Committee.** The ~~Board Governance Nominating~~ Committee shall obtain and nominate candidates for the board of directors of the Association, and shall periodically review, and recommend to the board of directors, the criteria for selection of directors. The ~~committee Nominating Committee~~ shall follow the nomination procedures set forth in ~~Article III~~, Section 3, ~~(c)~~ of ~~these bylaws~~ this Article III.

The ~~committee Nominating Committee~~ shall evaluate the operations and performance of the board, ~~its~~ of directors and members, and committees, ~~thereof~~ for the purpose of determining whether the board of directors and its members are fulfilling their responsibilities to each other, and to the Association, its bylaws, goals and objectives. The ~~committee Nominating Committee~~ may recommend to the board of directors the retention or replacement of ~~board~~ members of the board of directors.

~~The committee shall consist of five (5) members, three (3) of whom shall be the Chair of the board of directors and two (2) other directors. The Nominating Committee shall propose to the board of directors candidates for the positions of Chair and Vice Chair of the board of directors. Such recommendations shall be submitted to the board of directors not less than 30 days prior to the meeting at which the individuals nominated shall be proposed for election.~~

(c) **Finance Committee.** The Finance Committee shall assist the board of directors in its oversight responsibilities relating to fiscal management of organization-wide financial assets, including, but not limited to, assisting the board of directors in its oversight and monitoring the Association's systems of internal controls and risk mitigation, in ensuring compliance with legal and ethical standards and in selecting and hiring of any financial statement reviewers or auditors.

(d) ~~(e)~~ **Other Committees.** The board of directors shall ~~maintain~~ establish committees ~~which have~~ with the responsibility ~~for~~ of advising the board of directors regarding finance, administration, development, membership, publications and any other function as determined by the board; ~~the~~ of directors. The functions may be accumulated in one or more committees. ~~The board may create other committees by a resolution adopted by a majority of the directors present at a meeting of the board.~~

~~(f)~~ **Appointment of Committee Members.** ~~Members of each committee shall be members of the Association, and the Chair of the board shall appoint the members thereof, subject to the approval of the board. Any committee member may be removed whenever, in the judgment of the Chair of the board of directors and the Executive Committee, the best interest of the Association shall be served by such removal~~

(e) **Term of Committee Members; Removal.** Each member of a committee shall

continue as such until the ~~next meeting~~expiration of the ~~director's~~term of ~~the Association,~~office of such director or until ~~said member's~~a successor is appointed, ~~or unless the committee shall be sooner terminated, or unless such member shall cease to qualify as a member of the Association. No individual may hold a position on the same committee for more than nine~~ ~~(9) consecutive years.~~elected and qualified, subject to such director's earlier death, resignation, disqualification or removal. Any committee member may be removed from the committee by the board of directors.

- (f) ~~(g)~~ **Meetings of the Committees.** Meetings of committees of the board of directors shall be held in such a manner and at such time and place as shall be fixed by the chair of the committee. Unless otherwise provided by the board of directors, a majority of all of the members of a committee shall constitute a quorum, and ~~the~~a majority ~~vote~~ of the votes entitled to be cast by the members present at a meeting at which a quorum is present shall be the act of the committee.
- (g) ~~(h)~~ **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 9.**

### **10. Committees of the Association**

3. Except as otherwise provided herein, the board of directors may appoint one or more committees of the Association, with each committee to consist of one or more members, who need not be members of the board of directors. Each committee of the Association shall have the authority as set forth below, and no such committee of the Association constitutes a committee of the board of directors nor may any such committee have or exercise the authority of the board of directors in the management of the Association. If a committee of the association has its own rules and procedures regarding selection and appointment of its members, then any director appointed in accordance with those rules will be deemed to have been appointed by the board of directors.

- (a) **Checklist Committee.** The ABA Checklist Committee (ABA-CLC) shall maintain and revise a master checklist of the birds of the ABA Area, including any determination of checklist standards and geographic standards. The checklist, taxonomic changes, species inclusion and exclusion, decisions on acceptability, ease-of-observation codes, and four-letter alpha codes shall be revised from time to time by the ABA-CLC. The ABA-CLC's latest online revised checklist shall serve as the basis for all ABA Area lists and other types of lists recognized by the Association for areas that include, or are included by, the ABA Area as delineated herein. Any change to what constitutes "the ABA Area" for checklist purposes must be approved by the board of directors and the members.

- (b) **Recording Standards and Ethics Committee.** The Recording Standards and Ethics Committee (RSEC) shall establish and amend the rules and procedures for the submission to, and publication by, the Association, of both bird lists and Big Day Reports, shall be responsible for the wording of the Association Code of Birding Ethics, and will address policy concerns regarding issues of birding ethics as they apply to the Association.
- (c) **Advisory Committee.** The board of directors may designate one or more Advisory Committees, which shall act in an advisory capacity to the board of directors. Each Advisory Committee shall consist of such number of persons as the board of directors may deem necessary to advise on matters affecting the affairs of the Association and assist in such general and specific duties and management and furtherance of the Association as requested and to the extent permitted by law.
- (d) **Appointment of Committee Members.** Members of each committee of the Association shall be members of the Association. Any committee member may be removed from the committee by the board of directors. Each member of a committee shall continue as such until the expiration of the term for which such member was appointed, or until such member's successor has been duly appointed. Each committee of the association shall determine the term and any term limits applicable to that committee of the Association.
- (e) **Meetings of the Committees.** Unless otherwise determined by the board of directors, meetings of committees of the Association shall be held in such a manner and at such time and place as shall be fixed by the chair of the committee. Unless otherwise provided by the board of directors, a majority of all of the members of a committee of the Association shall constitute a quorum, and a majority of the votes entitled to be cast by the members present at a meeting at which a quorum is present shall be the act of the committee.
- (f) **Vacancies.** Vacancies in the membership of any committee of the Association may be filled by appointments made in the same manner as provided in the case of the original appointments.

## 11. **Resignations and Removal of Directors.**

- (a) **Resignation.** Any director of the Association may resign at any time by written notice to the Chair of the board of directors or to the Secretary. Such resignation shall take effect at the time specified therein, or, if no time is specified, then upon delivery thereof.
- (b) **Removal.** Any director may be removed as a director, but only for cause, and by aaffirmative vote of two- thirds ~~majority vote~~ of theall directors ~~present~~then in ~~person or by proxy at any duly constituted meeting of the board of directors~~office.

## IV.

## ~~ARTICLE IV: OFFICERS~~

### 1. ~~Section 1. Number~~

The officers of the Association shall be a President, ~~Vice-President, Treasurer, and~~ Secretary, and such other officers as may be ~~created or authorized~~ appointed by the board, ~~at its discretion, including one or more Vice Presidents, one or more Assistant Secretaries and one or more Assistant Treasurers~~ of directors. Persons holding such offices shall be supervised by the ~~President~~ board of directors and shall have the authority to perform the duties ~~described~~ prescribed from time to time by the board of directors ~~or the President~~. The officers shall implement the direction, management policies and budgets as established by the board of directors. The officers ~~shall~~ may, but are not required to, be members of the board of directors. The officers may delegate duties to other employees of the Association ~~as approved by the executive committee or the board of directors.~~

### ~~Section 2.~~

### 2. **Qualifications, Removal and Resignation.**

1. Officers ~~shall~~ must be members of the Association. Any officer appointed by the board of directors may be removed, with or without cause, by a majority vote of the board of directors ~~whenever in its judgment the best interests.~~ Any officer appointed by the President may be removed, with or without cause, by the board of directors or by the Association would be served thereby President. An officer may resign at any time by giving written notice to the President; ~~or, if the President,~~ to the ~~Board~~ Chair of the board of directors. Such resignation shall take effect at the time specified therein, or, if no time is specified, then upon delivery:

### ~~Section 3~~ thereof.

### 3. **President.**

The ~~President shall be the~~ chief executive officer of the Association, regardless of the title assigned to that person by the board of directors, shall serve as the President of the Association, and shall ~~be responsible~~ report to the board of directors. The President shall provide leadership and implement the direction, policies and budgets of the Association as established by the board of directors. The President shall have the responsibility for the day-to-day management of the Association and all of its employees and shall do so within the direction, policies and budgets established by the board of directors. The President's responsibilities include, but shall not be limited to, apprising the board of directors regarding the condition of the Association and of external developments that could affect the condition of the Association, and providing consistent achievement of the Association's mission, policies, and objectives and assuring the custodianship of the Association's finances and assets. ~~The President may be removed with or without cause by a majority vote of all directors present at any~~

~~duly constituted meeting of the board.~~

4. ~~Section 4. Vice-President.~~

The Vice-President(s) shall perform the duties and exercise the powers assigned to that office by the President and shall have such other powers and perform such other duties as may be authorized by the policies and budget set by the board of directors and supervised by the President.

5. ~~Section 5. Treasurer.~~

The Treasurer is responsible for providing general direction, oversight and review of the financial operations of the Association, including such matters as banking and investments, fund and investment management, accounting, audit, reporting, controls, and measurements, ensuring that legal requirements and policies and budgets established by the board of directors are properly executed, and reporting regularly to the board of directors and the members on the financial status of the Association. The Treasurer may delegate such details of the performance of duties of the office as may be appropriate in the exercise of reasonable care to one or more other persons ~~in his stead~~, but shall not thereby be relieved of responsibility for the performance of such duties. The Treasurer shall also ensure the performance of such other duties customarily incident to the office of Treasurer. The Treasurer shall perform such other duties as from time to time may be assigned by the President, and shall report to the President, and shall execute the direction, policies and budgets established by the board of directors.

6. ~~Section 6. Secretary.~~

It shall be the duty of the Secretary to see that all notices required to be given by the Association are duly given; to keep a current list of the Association's members, directors and officers, and their mailing and email addresses; to be the custodian of the seal of the Association and affix the seal, or cause it to be affixed, to all agreements, documents and other papers requiring the same, and to be the designated custodian of all business records of the Association.

**~~ARTICLE V: ANNUAL AUDITOR'S REPORT~~**

**~~Section 1. Contents.~~**

~~The Treasurer shall annually prepare and mail to each director an auditor's report prepared and verified by a certified public accountant showing in appropriate detail the following:~~

- ~~(a) The assets and liabilities, including the trust funds, of the Association as of the last twelve-month fiscal period ending prior to each annual meeting of the Association.~~
- ~~(b) The principal changes in assets and liabilities, including trust funds, during the same fiscal period.~~

~~(c) The revenue or receipts of the Association, both unrestricted and restricted to particular purposes, for the same fiscal period.~~

~~(d) The expenses and disbursements of the Association, for both general and restricted purposes during the same fiscal period.~~

## **Section 2. Filing and Publication.**

~~The annual auditor's reports shall be filed with the records of the Association, and a complete copy shall be available to members at the offices of the Association, at the offices of the Association's registered agent, and where required by law. A complete abstract of the auditor's report shall be entered into the minutes of the proceedings of the next annual meeting of the membership and shall be published each year in any scheduled publication of the Association.~~

## **ARTICLE VI:**

### **PUBLICATIONS**

#### **V.**

##### **1. Section 1. Official Publication.**

The Association's official publication is BIRDING. ~~Every member shall be entitled to receive BIRDING for the duration of the membership, commencing with the first issue published after the receipt of that member's dues payment.~~

##### **2. Section 2. Other Publications.**

From time to time the board of directors may authorize the publication or sponsorship by the Association of print or electronic books, pamphlets, articles, magazines, and other ~~publication~~publications.

##### **~~Section 3. Refusal to Publish~~**

~~The Association, through the President or the Editor of each Association publication, or the board of directors, shall have the absolute right to refuse the inclusion, in any Association communication medium or publication, of any bird list, article, letter, still photograph, motion picture, advertising material or other form of communication submitted by any person or organization, with or without cause at the Association's sole discretion.~~

## **ARTICLE VII:**

#### **VI.**

### **TRANSACTIONS WITH DIRECTORS, OFFICERS, AND EMPLOYEES**

4. The Association may enter (i) into contracts or transact business with one or more of its directors, officers, or employees or with any corporation, association, trust company, organization, or other entity in which one or more of the Association's directors, officers, or employees happen to be directors, officers, trustees, beneficiaries, or stockholders, or otherwise interested; ~~or, and~~ (ii) into other contracts or transactions in which any one or more of this Association's directors, officers, or employees may ~~be in~~



~~any way~~ have a pecuniary or ~~otherwise interested, PROVIDED~~ other interest, provided, however, that the board of directors of the Association shall receive full disclosure of the nature (including the extent and details) of the interest of such director, officer, or employees and such contract or transaction shall be authorized, ratified, or approved by a majority of the directors present at any duly constituted meeting, except that ~~the~~ an interested director shall abstain from voting on said issue.

## VII.

### **ARTICLE VIII: INDEMNIFICATION OF DIRECTORS AND OFFICERS**

~~The Association shall, to the maximum extent permitted by law, indemnify each of its agents against expenses, judgments, fines, settlements and other amounts actually and reasonably incurred in connection with any proceeding arising by reason of the fact that such person is or was an agent of the Association. For purposes of this section, an "agent" of the Association includes any person who is or was a director, officer, employee or other agent of the Association or is or was serving at the request of the Association as a director, officer, or employee. In order to meet any of its obligations under this article, to the extent that coverage is available and provided that the premium is reasonable in an amount in relation to the coverage provided, the Association may purchase and maintain insurance on behalf of any agent of the corporation against any liability asserted against or incurred by the agent in such capacity, or arising out of the agent's status as such, whether or not the Association would have the power to indemnify the agent against liability under the provisions of this article.~~

#### 1. Right to Indemnification.

5. The Association shall indemnify and hold harmless, to the fullest extent permitted by applicable law as it presently exists or may hereafter be amended, any person (a "Covered Person") who was or is made or is threatened to be made a party or is otherwise involved in any action, suit or proceeding, whether civil, criminal, administrative or investigative (a "proceeding"), by reason of the fact that they, or a person for whom they are the legal representative, are or were a director or an officer of the Association or, while a director or an officer of the Association, is or was serving at the request of the Association as a director, officer, employee or agent of another corporation or of a partnership, joint venture, trust, enterprise or nonprofit entity, including service with respect to employee benefit plans, against all liability and loss suffered and expenses (including attorneys' fees) reasonably incurred by such Covered Person. Notwithstanding the preceding sentence, except as otherwise provided in Section 3 of this Article VII, the Association shall be required to indemnify a Covered Person in connection with a proceeding (or part thereof) commenced by such Covered Person only if the commencement of such proceeding (or part thereof) by the Covered Person was authorized in the specific case by the board of directors.

#### 2. Prepayment of Expenses.

6. The Association shall to the fullest extent not prohibited by applicable law pay the expenses (including attorneys' fees) incurred by a Covered Person in defending any proceeding in advance of its final disposition, provided, however, that, to the extent required by law, such payment of expenses in advance of the final disposition of the proceeding shall be made only upon receipt of an undertaking by the Covered Person to repay all amounts advanced if it should be ultimately determined that the Covered Person is not entitled to be indemnified under this Article VII or otherwise.

3. **Claims.**

7. If a claim for indemnification (following the final disposition of such proceeding) is not paid in full within 60 days after the Association has received a claim therefor by the Covered Person, or if a claim for any advancement of expenses under this Article XII is not paid in full within 30 days after the Association has received a statement or statements requesting such amounts to be advanced, the Covered Person shall thereupon (but not before) be entitled to file suit to recover the unpaid amount of such claim. In any such action the Association shall have the burden of proving that the Covered Person is not entitled to the requested indemnification or advancement of expenses under applicable law.

4. **Nonexclusivity of Rights.**

8. The rights conferred on any Covered Person by this Article VII shall not be exclusive of any other rights which such Covered Person may have or hereafter acquire under any statute, provision of the Articles, these Bylaws, agreement, vote of the members or disinterested directors or otherwise.

5. **Other Sources.**

9. The Association's obligation, if any, to indemnify or to advance expenses to any Covered Person who was or is serving at its request as a director, officer, employee or agent of another corporation, partnership, joint venture, trust, enterprise or nonprofit entity shall be reduced by any amount such Covered Person may collect as indemnification or advancement of expenses from such other corporation, partnership, joint venture, trust, enterprise or nonprofit entity, and the availability of such indemnity and advancement of expenses hereunder shall be of last resort.

6. **Amendment or Repeal.**

10. Any repeal or modification of the provisions of this Article VII shall not adversely affect any right or protection hereunder of any Covered Person in respect of any proceeding (regardless of when such proceeding is first threatened, commenced or completed) arising out of, or related to, any act or omission occurring prior to the time of such repeal or modification.

7. **Other Indemnification and Advancement of Expenses.**

11. This Article VII shall not limit the right of the Association, to the extent and in the manner permitted by law, to indemnify and to advance expenses to persons other than Covered Persons when and as authorized by appropriate corporate action.

VIII.

**ARTICLE IX: PROPERTY**

1. **~~Section 1.~~ Execution of Contracts.**

The board of directors, except as otherwise provided in these ~~bylaws~~Bylaws, may authorize any officer or agent or employee, in the name of and on behalf of the Association to enter into any contract, or execute and deliver any instrument. Such authority may be general or confined to specific instances, but unless so authorized by the board of directors or expressly authorized in these ~~bylaws~~Bylaws, to the fullest extent permitted by law, no officer, agent, or employee shall have any power or authority to bind the Association by any contract or engagement, or to pledge its credit, or to render it liable pecuniarily in any amount for any purpose.

2. **~~Section 2.~~ Loans.**

No loans shall be contracted on behalf of the Association unless specifically authorized by the board of directors.

3. **~~Section 3.~~ Checks; Evidences of Indebtedness.**

All checks and drafts on the Association's banking accounts, and all bills of exchange, promissory notes, and all acceptances, obligations, and other instruments for the payment of money, or other evidences of indebtedness, shall be signed by the Treasurer ~~or other,~~another officer, or a delegated staff member of the Association, as shall be duly authorized from time to time by the board of directors.

4. **~~Section 4.~~ Deposits.**

All funds of the Association not otherwise employed shall be deposited from time to time to the credit of the Association in such banks, trust companies, investment accounts (including bonds or equities) or other depositories as the Treasurer, and the board of directors or an appropriate ~~board~~-committee of the board of directors, may select.

5. **~~Section 5.~~ Bequests and Trusts.**

The Association may accept gifts, bequests and trust ~~which~~interests that benefit the purposes of the Association.

Unrestricted gifts of cash, securities or other negotiable instruments shall be promptly deposited in ~~an~~a bank account of the Association ~~account~~. Unrestricted gifts of real or other personal property shall not be accepted without prior approval of the board of directors.

A gift, bequest or trust interest ~~which~~that contains restrictions on its use shall not be binding on or be deemed accepted by the Association without the approval and acceptance of the terms by the board of directors of the Association. The board of directors may establish accounting practices, endowment funds, and financial management policies regulating the investment of unrestricted or restricted gifts, including funds from restricted gifts ~~which~~that exceed the restricted purpose.

### ~~Section 6. Mailing Lists.~~

~~The use of the mailing list of the members for any use whatsoever without the express written consent of the board of directors, or President is strictly prohibited.~~

## ~~ARTICLE X: FISCAL YEAR~~

### 6. Fiscal Year

The fiscal year of the Association shall commence at the beginning of the first day of January of each calendar year and end at the conclusion of the thirty-first day of December of that year, unless otherwise provided by resolution of the board of directors.

## IX.

## ~~ARTICLE XI: GENERAL~~

### ~~Section 1. Seal.~~

~~The Association's corporate seal shall be in the form of a circle and bear the full name of the Association and the year of its incorporation.~~

### ~~Section 2.~~

#### 1. Notices.

All notices required by these ~~bylaws~~Bylaws shall be in writing and ~~mailed~~emailed to all members in good standing at the email address appearing on the books of the Association, unless a member shall have filed with the Secretary a written request that notices be ~~mailed~~emailed to another address, in which case it shall be ~~mailed~~emailed to the address designated in the request. Any notice requirement may be waived in writing (including by email) by the member, or by ~~his~~ attending the subject meeting ~~without filing a written protest of notice thereof with the Secretary.~~

### ~~Section 3. Masculine and Feminine.~~

~~The masculine when used in these bylaws means the masculine and feminine wherever applicable.~~

### ~~Section 4. Construction.~~

~~These bylaws shall be construed in accordance with the laws of the State of Texas.~~

**Section 5. Procedure at Meetings.**

~~Except where otherwise provided by these bylaws, Robert's Rules of Order, latest edition, shall be used to decide questions of procedure or order at any meeting of members. The board of directors or the committees may choose other Rules of Order at their discretion.~~ for a purpose other than the express purpose of objecting at the beginning of the meeting to the transaction of any business because the meeting is not lawfully called and convened.

X.

**ARTICLE XII: AMENDMENTS**

1. **Section 1. Amendments.**

~~These bylaws~~ Unless otherwise provided in the Articles, these Bylaws may be ~~altered,~~ amended, altered or repealed by ~~a majority vote~~ the board of directors or the members, ~~eligible to vote, present in person or by proxy at any regular or special meeting thereof.~~

**Section 2. Notice.**

~~The notice of any meeting at which an~~ provided, however, that any proposed, amendment, alteration, or repeal by the board of directors must be approved by the members. No ~~amendment to these bylaws is to be considered shall state that fact and state the exact proposed working of the amendment. Notice of such meeting shall be given as required herein.~~

, alteration, change or repeal of these Bylaws shall be effected or be effective that would result in a denial or revocation of the tax-exempt status of the Association under Section 3501(c)(3) of the Internal Revenue Code of 1986, as amended.

2. **Effectiveness.**

Amendments to these ~~bylaws~~ Bylaws adopted at a duly constituted meeting of the board of directors or members shall become effective immediately upon the adoption thereof, unless otherwise stated in the amendment.

Document comparison by Workshare Compare on Monday, October 17, 2022  
10:49:00 AM

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Document 2 ID	file://C:\Users\Jason Crotty\Downloads\Bylaws-Proposed-Amended-Restated.pdf
Description	Bylaws-Proposed-Amended-Restated
Rendering set	Standard

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Format change	
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Deleted cell	
Moved cell	
Split/Merged cell	
Padding cell	

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Format changes	0
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