

The Highlands Swim Club

# Club Bylaws

Revised by a vote of the membership on September 29, 2018

## **The Highlands Swim Club By-Laws**

### **Article I. - Principal Office**

1. The principal office of the Highlands Swim Club, a nonprofit corporation (“the Corporation”) shall be located at such place in the County of Alameda, State of California, as the Board of Directors may, from time to time, establish. All meetings of the members and the Board of Directors shall be held either at the principal office of the corporation or at such other place as the Board of Directors may, from time to time, determine.

### **Article II. – Corporate Seal**

1. The corporate seal shall consist of two concentric circles with the name "THE HIGHLANDS SWIM CLUB" and the word "CALIFORNIA" between them and the words and figures "INCORPORATED APRIL 11, 1962, CALIFORNIA" and "A NON-PROFIT CORPORATION" within the smaller circle.

### **Article III. – Membership**

1. There shall be only one class of membership.
2. There shall be only one membership per household and only one vote per membership with each vote being equal. Each household will designate a member eighteen (18) years or older to vote on behalf of the household.
3. The number of memberships shall not at any time exceed 250.
4. The Board of Directors shall not lease any memberships.

### **Article IV. – Member Rights and Responsibilities**

1. A member shall be the individual or individuals named on the Certificate of Membership and all persons residing within their household.
2. The members in good standing shall be entitled to use all of the facilities and properties of the Corporation, subject to such rules and regulations as the Board of Directors may, from time to time, prescribe.

3. Members shall, in all respects, conform to and abide by the by-laws of the Corporation, and all amendments and changes made to the by-laws.

4. The Board of Directors shall have the right to suspend or expel any member for any violations of these by-laws or of any rule or regulation of the Corporation, or for conduct contrary to the best interests of the Corporation. Any member accused of a violation shall be notified by the Secretary at least five (5) days prior to the meeting of the Board of Directors at which such violation is to be considered. Such member shall have the right to appear before the Board at such meeting and be heard. Suspension of a member shall require the affirmative vote of at least four (4) members of the Board of Directors. Expulsion of a member shall require the unanimous vote of the Board of Directors.

5. Any member who has been suspended shall be denied the privileges of the membership during the term of such suspension. Any expelled individual immediately forfeits all of the rights of a member.

6. The Corporation shall have no liability or responsibility, and no member or guest of a member, or any other person, shall have any claim against the Corporation for any personal injury to or death of any member or guest, or for the loss or damage to the property of any member or guest.

7. Any loss or damage resulting to any of the properties of the Corporation from the acts or conduct of any member, or the guest of a member, and any indebtedness to the Corporation incurred by the guest of a member, shall be assessed to such member and shall be paid as in the case of other assessments.

#### **Article V. – Certificates of Membership**

1. Memberships shall be evidenced by a Certificate of Membership which shall be issued over the signature of the President and Secretary or other officers or Directors of the Corporation as the Board of Directors shall, from time to time, specify, with the official seal of the Corporation affixed, and shall be in substantially the following form:

##### ***CERTIFICATE OF MEMBERSHIP***

*This certifies that (Insert Membership Name) owns a membership in The Highlands Swim Club; a Corporation organized pursuant to the General Non-Profit Corporation Law of the State of California, and is entitled to all of the rights and privileges as conferred by, and subject to the by-laws of said Corporation. By acceptance of this Certificate, the holder*

*hereof irrevocably assents to, and agrees to be bound by, said by-laws, as the same may be modified or amended from time to time. This Certificate confers no right, title or interest in or to any of the property assets of said Corporation, except as expressly set forth in the by-laws of said Corporation.*

*This Certificate can be transferred only in the manner prescribed in said by-laws, and only after endorsement on the back hereof of the signature of the person to whom this Certificate is issued, or by the duly appointed Attorney-in-Fact of such person, or by his/her duly appointed and qualified personal representative, and any transfer shall not be final until shown upon the books of said Corporation, and attested by the signature of the Secretary of said Corporation affixed, and the transferee accepts the transfer herein subject to the above conditions.*

*Dated:*

**THE HIGHLANDS SWIM CLUB**

By \_\_\_\_\_ By \_\_\_\_\_  
President Membership Director  
(Seal)

2. If a Certificate of Membership has been lost, destroyed, or wrongfully withheld, the Board of Directors, by resolution, may cancel such Certificate and a new or duplicate Certificate may be issued to replace it pursuant to the laws of the State of California.

3. A transfer of a Certificate of Membership shall be valid only after the following:

a. Payment of all indebtedness due the corporation from the member transferring such Certificate; and,

b. Payment to the Corporation of a transfer fee in such amount as may be fixed by the Board of Directors, provided that the Board of Directors may waive a transfer fee if the certificate is to be transferred to the surviving spouse, son, or daughter, otherwise eligible for membership, of a deceased member, or of a member legally adjudged incompetent; and,

c. Transfer is recorded in the Corporation's books.

4. The Board of Directors shall cancel the Membership Certificate of an expelled member and the membership shall vest in the Corporation. The Corporation is thereupon authorized

to sell such membership in such manner and at such time and for such price as shall be determined by the Board of Directors and, when sold, such expelled member shall be entitled to receive the proceeds of such sale, less any sums owing to the Corporation.

5. Any person may, at any time, resign his/her membership in the Corporation, but such resignation shall not be accepted until all indebtedness to the Corporation has been paid and the Certificate of Membership, duly endorsed, shall have been delivered to the Corporation. The resigning member will forfeit the membership, receiving no compensation. The membership shall vest in the Corporation. The Corporation is thereupon authorized to sell such membership in such a manner and at such time and for such price as shall be determined by the Board of Directors with the Corporation receiving the full amount of the proceeds from such sale.

#### **Article VI. - Fees, Dues and Assessments**

1. The Corporation shall operate on a fiscal year, commencing January 1st and ending December 31st.

2. The Transfer Fee payable to the Corporation on the transfer of a Certificate of Membership shall be in the amount of Thirty Dollars (\$30.00) or in such other sum as the Board of Directors may set forth.

3. The dues payable by each member shall be \$575 (2018 rate) and shall be annually adjusted by an amount equal to the increase in the San Francisco/Oakland/San Jose Urban Wage Earners and Clerical Works Consumer Price Index. Dues shall be payable on April 1st of each year. The amount of said dues shall be sufficient to pay all of the operating expenses of the Corporation.

4. At the Annual Meeting, the Board shall present to the membership for vote an amount of additional dues that shall be allocated to the capital improvement fund. The funds in the capital improvement fund shall be used solely to improve and/or repair the facilities. The Board shall report all expenditures from the capital improvement fund.

5. The Board of Directors may levy assessments against memberships from time to time, in such amounts as are necessary, providing that such assessments do not total more than twenty-five percent (25%) of the regular dues per membership in any one budget year. Additional assessments may be made with the approval of the membership.

6. All fees, dues, assessments, and other charges referred to herein do not include governmental excise taxes, if any.

7. If a member fails to pay any dues, fees, assessments, or other indebtedness within fifteen (15) days after the same become due, an officer of the board shall notify such member of this delinquency. If such indebtedness, including any penalties hereinafter imposed, shall not be paid within fifteen (15) days after such notice, such delinquent member shall be suspended by the Board of Directors. An officer of the board shall thereupon notify such member of his/her suspension, by certified mail, and if such indebtedness, together with any penalties hereinafter imposed, shall not be paid within thirty (30) days after such notice, such member shall be expelled and cease to be a member of the Corporation; and if he/she be a holder of a Certificate of Membership, such Certificate shall be cancelled and may be sold by the Board of Directors, as provided in Article V, Section 4 of these by-laws.

8. The collection of any indebtedness of any membership to the Corporation for dues, assessments or other charges, shall be enforceable by the Corporation at law, and the resignation, expulsion, suspension or cancellation of a membership or member shall not relieve such member of the liability and obligation to pay the indebtedness.

9. There shall be imposed a penalty for late payment of dues delinquent more than fifteen (15) days, but less than thirty (30) days from the due date thereof in the sum of five percent (5%) of current dues, and upon dues delinquent more than thirty (30) days from the due date thereto in the sum of fifteen percent (15%) of the current dues. On good cause shown and on payment in full on all delinquent indebtedness, including any penalties hereinabove imposed, the Board of Directors shall have the power to restore the membership of any such suspended or expelled member.

10. The name of all delinquent members and the amounts owing by them may be posted in a conspicuous place on the property of the Corporation at the discretion of the Board of Directors.

11. A thirty (30) day notice to members must be given for all fees, dues, assessments and other charges.

12. If a member's check is returned for lack of sufficient funds, that member must pay any bank fees incurred by the Corporation and may be required to make payments by cashier's check.

#### **Article VII. - Membership Meetings**

1. The regular Annual Meeting of the members shall be held during the month of September, on a date designated by the Board of Directors. The annual budget shall be presented and approved by the majority of those members present.

2. Special meetings of the members for any purpose may be called at any time by the President, or any two (2) of the Board of Directors, or upon the written request of twenty (20) members.

3. Notice of annual meeting and special meetings of members shall be given by the Secretary to each member of the Corporation at least fifteen (15) days prior to such meeting and such notice shall specify the date, time and place of such meeting, and the general nature of the business to be transacted.

4. Members in good standing may vote at any meeting, either in person or by proxy. Proxies must be signed by the member and filed with the Secretary before the start of the meeting. Cumulative voting shall not be permitted. A quorum for the transaction of business shall consist of at least twenty (20) members present. The members present at a duly called and duly held meeting at which a quorum is present may continue to do business until adjournment, notwithstanding the withdrawal of enough members to leave less than a quorum; provided that no new business may be brought to a vote if a quorum is not present.

5. Except as otherwise expressly provided in these by-laws, or by law, the vote of a majority of the members present at any duly held meeting at which a quorum is present shall be and constitute the act of the members.

6. All meetings of the Corporation shall be conducted in accordance with Robert's Rules of Order (current edition).

#### **Article VIII. – Directors**

1. All of the powers of the Corporation shall be vested in and shall be exercised by, and the properties of the Corporation controlled by, and the affairs of the Corporation conducted by, a Board to be known as the Board of Directors. The Board of Directors shall constitute the

governing body of the Corporation and shall be empowered to do any and all things necessary or proper to carry out the objects and purposes of the Corporation consistent with law, the Articles of Incorporation, and these by-laws. The Board of Directors shall consist of the officers of the corporation.

2. A quorum of the Board of Directors shall be at least four (4) Directors. Unless expressly stated otherwise in the by-laws, any action of the Board of Directors shall require a majority vote of the Directors present.

3. The regular Annual Meeting of the Board of Directors shall be held within sixty (60) days following the regular Annual Meeting of members. Regular meetings of the Board of Directors shall be held at such time and on such day and at such place as the Board, by resolution, may from time to time determine. Special meetings of the Board of Directors may be called by the President or by any two (2) Directors, and shall be held at the principal office of the Corporation or at such other place as the Board may select. Notice of all meetings of the Board of Directors shall be given by the Secretary of the Corporation to each Director at least forty-eight (48) hours prior to the time of such meeting. Such notice shall be either verbal, by telephone, or in writing.

4. The Board of Directors shall have the power and shall:

a. Make and prescribe rules and regulations for the conduct of the members and the use of the properties and facilities of the Corporation.

b. Make and prescribe rules and regulations necessary or convenient for carrying into effect the requirements of these by-laws, and such other rules and regulations as, in the judgment of the Directors, may be proper.

c. Conduct, manage and control the affairs and business of the Corporation.

d. Appoint and remove at pleasure all agents and employees of the Corporation, prescribe their duties, fix their compensation and, if deemed necessary, require a commitment of faithful performance of their duties.

e. Authorize all necessary expenditures and incur indebtedness from time to time and secure payment thereof by pledge, hypothecation, mortgage, indenture, deed of trust, or other form of security.



f. Except as otherwise herein provided, deal conclusively with all matters relating to the discipline of members and, as it may deem proper, expel or suspend a member for infraction of the rules, regulations or by-laws.

g. Construe or interpret these by-laws, which construction or interpretation shall control and be conclusive.

h. Create such committees, as in its judgment may be necessary, for properly conducting the affairs of the Corporation. The members of such committees shall be members of the corporation. The Board of Directors may delegate to the President the authority to appoint the members of such committees.

i. Extend, at its discretion and subject to Article IV hereto, the use of facilities and property of the Corporation to any person or persons including, but not limited to, the guest(s) of a member, prospective members, and persons who may be permitted use of the Corporation's facilities temporarily, on a fee basis. The Board of Directors shall make such rules and regulations, and set fees as it deems proper, respecting the use of the facilities of the Corporation by guests of members, prospective members, and others.

5. The specification of particular powers and duties herein shall not be construed to, in any manner or to any extent, limit or restrict the powers and duties of the Board of Directors, and the Board of Directors shall do all things necessary and proper for the control, management and operation of the Corporation, its properties and affairs.

#### **Article IX. – Officers**

1. The officers of the Corporation shall be a President, a Secretary, a Treasurer, a Membership Director, a Facilities Director, and a Socials Director. The Vice-President shall be one of the aforementioned officers, except the President, and shall be elected by the Board.

2. To be eligible, an officer must be an active member in good standing of the Corporation and not a membership leaseholder.

3. The officers of the Corporation shall be elected at the regular Annual Meeting of members and shall serve for two (2) years. Termination of a membership of an officer shall cause a vacancy in that office. The terms of the officers shall be staggered such that three

(3) officers shall be elected in one year followed by three (3) in alternating years; provided that any vacant office shall come up for election at the next Annual Meeting or Special Meeting called for the purpose of filling the vacancy.

4. Not less than thirty (30) days prior to the regular Annual Meeting of the members, the Board of Directors shall appoint a nominating committee consisting of not less than three (3) members of the Corporation in good standing. The offices that will be up for election or that have been filled by the Board due to vacancy shall be conveyed to the nominating committee in writing. It shall be the duty of said nominating committee to ascertain, from the membership, suitable candidates for the offices to be filled at the forthcoming regular Annual Meeting of members, and the willingness of said potential candidates to fill the office. It shall further be the duty of said nominating committee to submit to the general membership at the regular Annual Meeting a list of eligible and willing candidates for the vacancies to be filled. Nominations of candidates shall be accepted from the floor at the regular Annual Meeting of members: provided, said candidates are in attendance or represented by a written proxy prior to voting.

5. The officers shall not be required to pay dues for the year(s) in which they hold office. However all officers are required to pay any assessments that may be levied to the membership by the Board of Directors.

6. Any officer may be removed from office, either with or without cause, by the majority vote of the Board of Directors present at any regular or special meeting at which a quorum of the Board is present. Any officer, who shall be absent from the meetings of the Board of Directors for a period of ninety (90) days, without leave voted by the Board of Directors, shall be considered as having resigned. Any officer may resign at any time by giving written notice to the Corporation and any such resignation shall take effect on the date of receipt of such notice, or at any later time specified therein and, unless otherwise specified, the acceptance of such resignation shall not be necessary to make it effective. If an officer fails to complete an entire year in office, the officer must pay his/her dues prorated for the time not served for the remainder of the year.

7. Any vacancy occurring in an office shall be filled by appointment and approval of the remaining Board of Directors and the person named to fill such office shall hold office until a successor has been elected.

8. The President, subject to the direction and control of the Board of Directors, shall be the principal executive officer of the Corporation and shall, in general, supervise and control all of the business and affairs of the Corporation. The President shall:

- a. Preside at all meetings of the members and at all meetings of the Board of Directors.
- b. Have the right to vote on any matter at any meeting of the Board.
- c. Be an ex-officio member of all committees.
- d. Execute all deeds, contracts, and other instruments in writing which have been first approved by the Board of Directors.
- e. Present an annual financial report and operations report to the members, and other information specifically called for in the by-laws.
- f. Be responsible for supervising the Pool Manager.
- g. Perform such other duties and have such other powers as shall be, from time to time, assigned to him/her by the Board of Directors.
- h. All board members shall maintain a procedure binder for their respective position.

9. In the absence of the President, or in the event of his/her inability or refusal to act, the Vice President shall perform the duties of the President, and when so acting shall have all of the powers of, and be subject to all the restrictions upon, the President. The Vice President shall perform such other duties and have such other powers as shall be, from time to time, assigned to him/her by the Board of Directors.

10. In the absence of the President and Vice President, or in the event of their inability or refusal to act, the Board of Directors shall appoint a member as Acting President, in who shall be vested for the time being all the duties, functions and powers of the President.

**11. The Secretary shall:**

- a. Keep a record of the proceedings of all meetings of the members and of the Board of Directors.

- b. Give all notices required by law or by these by-laws.
- c. Have custody of the corporate books, records and documents and the corporate seal.
- d. Maintain all communication lists for the membership, including emails addresses and communication preferences.
- e. Help to maintain the club website.
- f. Perform all duties incident to the office of Secretary and such other duties as, from time to time, may be assigned by the Board of Directors.

**12. The Treasurer shall:**

- a. Supervise the accounting records of the Corporation.
- b. Have charge and custody of and be responsible for all funds and securities of the Corporation.
- c. Receive and give receipts for all monies paid to the Corporation.
- d. Deposit all such monies in the name of the Corporation in such banks or other depositories as shall be designated by the Board of Directors.
- e. Withdraw funds as directed by the Board of Directors.
- f. Report all checking or savings balances at all meetings.
- g. Perform all of the duties incident to the office of Treasurer and such other duties as, from time to time, may be assigned by the Board of Directors.

**13. The Membership Director** is primarily responsible for the maintenance, upkeep and accuracy of the Swim Club's membership roster and marketing of the Club to prospective members. The Membership Director shall:

- a. Issue club membership certificates to new members and lease agreements to lessees.

- b. Manage membership roster data.
- c. Answer all queries pertaining to the Club membership.
- d. Help to maintain the club website, email group, and social media communications.
- e. Forward the current membership database to the other Board Members and Pool Manager as requested and necessary.
- f. Perform all of the duties incident to the office of Membership Director and such other duties as, from time to time, may be assigned by the Board of Directors.

**14. The Facilities Director Shall:**

- a. Be responsible for the maintenance of the club as well as capital improvement projects.
- b. Be responsible for securing, reviewing and presenting bids to the Board of Directors for capital projects.
- c. Work with Pool Manager to maintain the pool and pool equipment.
- d. Perform all of the duties incident to the office of Facilities Director and such other duties as, from time to time, may be assigned by the Board of Directors.

**15. The Social Director is responsible for:**

- a. Planning, promoting, and management of all club social events.
- b. Perform all of the duties incident to the office of Social Director and such other duties as, from time to time, may be assigned by the Board of Directors.

**Article X. – Indemnification**

1. To the fullest extent allowed by Section 5238 of the California Nonprofit Public Benefit Corporation Law (the “Code”), this Corporation shall indemnify its officers and directors, in connection with any proceeding, and in accordance with Section 5238 of the Code; “proceeding” shall have the same meaning as in Section 5238(a) of the Code.

2. The indemnification will inure to the benefit of the heirs, executors and administrators of persons entitled to indemnification hereunder. The right of the indemnification under this Article shall be in addition to and not exclusive of all other rights to which any person may be entitled.

3. This Article constitutes a contract between the Corporation and the indemnified officers and directors. No amendment or repeal of the provisions of this Article which adversely affects the right of an indemnified officer, director, under this Article shall apply to such officer, or director, with respect to those acts or omissions which occurred at any time prior to such amendment or repeal.

**Article XI. – Amendments**

1. The Articles of Incorporation or by-laws may be altered, amended or repealed by written assent of a majority of the members, or the vote of a majority of the members at any annual meeting or at a special meeting duly called for such purpose, at which a quorum is present.

**Article XIII. – Property Rights of Members**

1. The owners of all memberships in good standing shall be the beneficial owners of all of the properties and assets of the Corporation, each in an undivided share. Such beneficial interests cannot be alienated, transferred, assigned, bequeathed, devised or passed by the laws of inheritance or interstate succession or any judicial proceedings or by the operation of any law or in any other manner, except as in these by-laws provided.

2. In the event of the dissolution of this Corporation, in accordance with applicable proceedings as provided by law, all property, cash and assets of this Corporation shall be distributed and paid over to the owners of all memberships in good standing, share and share alike.

Revised and Amended as of September 29, 2018

\_\_\_\_\_  
President  
Richard Maher

\_\_\_\_\_  
Secretary  
Becky Bruno

## **Glossary:**

**Cumulative voting** – With cumulative voting each voter is given as many votes as there are positions to be filled and allowed to cast those votes for one candidate or distribute them in any way among the candidates. Highlands by-laws do not permit cumulative voting, thus a member may only vote once per candidate regardless of the number of vacancies on the board.

**Good standing** – Being a member in good standing means that all dues, assessments and late fees are paid.

**Notice/Notification:** Announcement or warning. Our by-laws provide for notices being posted at the pool site when the pool is open for regular use, mail, phone or email. When the pool site is closed, notice will be provided in electronic or paper format according to the member's preference.

**Proxy** – A proxy is a written authorization signed by a member or the member's attorney in fact giving another person power to vote on behalf of such member. Proxies must be received and verified by the secretary prior to the call to order of the meeting. Any vote cast by the specified proxy is binding for the member being represented.

**Written Notice** – Written notice will be considered valid if delivered in a paper or electronic format, unless a signature is explicitly required, in which case paper format is required.

**Quorum** – A quorum is the number of members who must be present in order to transact business. A quorum is always required to introduce new business in a meeting.