

## NECMA Foundation

### By-Laws

- Article I - General Provisions Section
- Article II - Members
- Article III - Directors
- Article IV - Officers
- Article V - Sponsors, Benefactors, Contributors, Advisors, Friends of the Foundation
- Article VI - Contracts, Loans, Payments
- Article VII - Inspection of Records
- Article VIII - Seal
- Article IX - Fiscal Year
- Article X - Personal Liability
- Article XI - Indemnification of Directors, Officers and Employees
- Article XII - Personal Financial Interest
- Article XIII - Amendments

#### **Article I - General Provisions Section**

**Section 1. Purpose.** The general purpose of the NECMA Foundation (the "Foundation") is to secure funds to enhance the education, the professionalism and recognition of individuals engaged and employed in the private club industry in the states of Maine, Massachusetts, New Hampshire, Rhode Island and Vermont.

**Section 2. Pronouns.** Each reference to pronouns herein shall be construed in the masculine, feminine, neuter, singular or plural, as the context may require.

#### **Article II - Members**

**Section 1. Membership.** The Foundation shall not have any members. Any action or vote required or permitted by law to be taken by members shall be taken by action or vote of the same percentage of the Directors of the Foundation.

#### **Article III - Directors**

**Section 1. Powers.** The Board of Directors shall have the entire charge, control and management of the Foundation and its property and may exercise all or any of its powers.

**Section 2. Number and Election.** Except as otherwise provided by these By-Laws or in the Articles of Incorporation, the number of Directors that shall constitute the whole Board of Directors shall be fixed to no less than five, and the Directors elected, by the Directors at the annual meeting. Eligible candidates for election and ongoing service as a Director must be a Past President of the New England Chapter - CMAA and/or member in good standing of the New England Chapter - CMAA (formerly the New England Club Managers Association).

**Section 3. Vacancies.** Any vacancy at any time existing in the Board of Directors, may be filled or left vacant by the Board of Directors at any meeting.

**Section 4. Enlargement of the Board of Directors.** The number of the Board of Directors may be increased and one or more additional directors may be elected at any meeting of the Directors.

**Section 5. Tenure.** Except as otherwise provided by law, by the Articles of Organization or by these By-Laws, Directors shall hold office for no more than two (two-year terms). The term will begin and end at the Annual Meeting.

**Section 6. Resignation.** Any Director may resign by delivering his written resignation to the Foundation at its principal office or to the President or Clerk. Such resignation shall be effective upon receipt unless it is specified to be effective at some other time or upon the happening of some other event.

**Section 7. Removal.** A Director may be removed from office with or without cause by vote of a two-thirds majority of the Directors then in office. A Director may be removed for cause only after reasonable notice and opportunity to be heard before the Board of Directors.

**Section 8. No Right to Compensation.** No director or officer resigning, and (except where a right to receive compensation shall be expressly provided in a duly authorized written agreement with the Foundation) no director or officer removed, shall have any right to any compensation as such director or officer for any period following his resignation or removal, or any right to damages on account of such removal, whether his compensation be by the month or by the year or otherwise; unless in the case of a resignation or a removal, the directors shall in their discretion provide for compensation.

**Section 9. Annual Meeting.** The date, place and time of the annual meeting of the Directors shall be fixed by the Directors. In the event that no date for the annual meeting is established or if no annual meeting is held in accordance with the foregoing provisions, a special meeting may be held in lieu thereof, and any action taken at such meeting shall have the same effect as if taken at the annual meeting.

**Section 10. Regular Meetings.** Regular meetings of the Directors may be held at such times and places as shall from time to time be fixed by resolution of the Board and no notice need be given of regular meetings held at times and places so fixed, provided, however, that any resolution relating to the holding of regular meetings shall remain in force only until the next annual meeting of Directors, or the special meeting held in lieu thereof, and that if at any meeting of Directors, at which a resolution is adopted fixing the times or place or places for any regular meetings, any Director is absent, no meeting shall be held pursuant to such resolution until either each such absent Director has in writing or by e-mail approved the resolution or seven days have elapsed after a copy of the resolution certified by the Clerk has been mailed, postage prepaid, addressed to each such absent Director at his last known home or business address.

**Section 11. Special Meetings.** Special meetings of the Directors may be called by the President, by the Clerk, by the Secretary, or by any two Directors, and shall be held at the place designated in the notice or call thereof.

**Section 12. Notices.** Notices of any special meeting of the Directors shall be given to each Director by the Clerk or Secretary (a) by mailing to the Director, postage prepaid, and addressed to the Director at the address as registered on the books of the Foundation, or if not so registered at the last known home or business address, a written notice of such meeting at least four days before the meeting or (b) by delivering such notice by hand or by telegram, telecopy or telex to the Director at least forty-eight hours before the meeting at such address, notice of such meeting or (c) by giving notice to such Director in person or by telephone at least forty-eight hours in advance of the meeting or (d) by notifying the Director by electronic mailing at least forty-eight hours in advance of the meeting. Such notice, if the meeting is

called otherwise than by the Clerk or Secretary, must include a copy of the call of the meeting; and if the meeting is not so otherwise called, such notice given by the Clerk or Secretary shall constitute a call of the meeting by the Secretary or Clerk. If the Clerk or Secretary refuses or neglects for more than twenty-four hours after receipt of a call to give notice of such special meeting, or if the offices of Clerk and Secretary are vacant or the Clerk and Secretary are absent from the Commonwealth of Massachusetts or incapacitated, such notice may be given by the officer or one of the Directors calling the meeting. Notice need not be given to any Director if a written waiver of notice, executed by the Director before or after the meeting, is filed with the records of the meeting, or to any Director who attends the meeting without protesting prior thereto or at its commencement the lack of notice to said Director. A notice or waiver of notice of a Directors' meeting need not specify the purposes of the meeting.

**Section 13. Quorum.** At any meeting of the Directors a majority of the Directors then in office shall constitute a quorum for the transaction of business; provided always that any number of Directors (whether one or more and whether or not constituting a quorum) constituting a majority of Directors present at any meeting or at any adjourned meeting may make any reasonable adjournment thereof.

**Section 14. Action at Meeting.** At any meeting of the Directors at which a quorum is present, the action of the Directors on any matter brought before the meeting shall be decided by vote of a majority of those present, unless a different vote is required by law, the Articles of Organization, or these By-Laws.

**Section 15. Action by Written or Electronic Consent.** Any action by the Directors may be taken without a meeting if a written consent is submitted by all the Directors and filed with the records of the Directors' meetings. Voting by electronic mail (e-mail) is permitted under these By-Laws. Such consent shall be treated as a vote of the Directors.

**Section 16. Committees.** The Directors may, by vote of a majority of the number of Directors then in office, elect from their number an executive or other committees and may, by like vote, delegate thereto some or all of their powers except those which by law, the Articles of Organization or these By-Laws they are prohibited from delegating. Except as the Directors may otherwise determine, any such committee may make rules for the conduct of its business, but unless otherwise provided by the Directors or in such rules, its business shall be conducted as nearly as may be in the same manner as is provided by these By-Laws for the Directors. The Directors shall have the power to fill vacancies in, change the membership of, or to disband, any such committee.

**Section 17. Telephone Conference Meetings.** The Directors may participate in a meeting of the Directors or such committee by means of a conference telephone or similar communications equipment by means of which all persons participating in the meeting can hear each other at the same time, and participation by such means shall constitute presence in person at a meeting.

#### **Article IV - Officers**

**Section 1. Enumeration.** The officers of the Foundation shall be a President, a Treasurer, and Secretary and other officers as may from time to time be determined by the Directors. The Board of Directors may appoint one of its Directors to the office of Chairman of the Board and from time to time define the powers and duties of that office.

**Section 2. Election and Vacancies.** The Officers shall be elected annually by the Directors at their annual meeting or the special meeting held in lieu thereof. Any vacancy at any time existing in any office may be filled by the Directors at any meeting and such successor in office shall hold office for the unexpired term of his predecessor.

**Section 3. Qualification.** Any two or more offices may be held by the same person. The Secretary shall be a resident of Massachusetts unless the Foundation has a resident agent appointed for the purpose of service of process. Any officer may be required by the Directors to give bond for the faithful performance of his duties to the Foundation in such amount and with such sureties as the Directors may determine. The premiums for such bonds may be paid by the Foundation.

**Section 4. Tenure.** Except as otherwise provided by law, by the Articles of Incorporation or by these By-Laws, the Officers shall hold office for no more than two consecutive one-year terms. The term will begin and end at the annual meeting.

**Section 5. Resignation.** Any officer may resign by delivering his written resignation to the Foundation at its principal office or to the President or Secretary, and such resignation shall be effective upon receipt unless it is specified to be effective at some other time or upon the happening of some other event.

**Section 6. Removal.** The Directors may remove any officer appointed by the Directors with or without cause by a vote of a majority of the entire number of Directors then in office; provided, that an officer may be removed for cause only after reasonable notice and opportunity to be heard by the Board of Directors prior to action thereon.

**Section 7. President.** The President when present shall preside at all meetings of the Directors. He shall be the Chief executive officer of the Foundation except as the Board of Directors may otherwise provide. It shall be his duty and he shall have the power to see that all orders and resolutions of the Directors are carried into effect. He shall from time to time report to the Directors all matters within his knowledge which the interests of the Foundation may require to be brought to its notice. The President shall perform such duties and have such powers additional to the foregoing as the Directors shall designate.

**Section 8. Treasurer.** The Treasurer shall, subject to the direction of the Directors, have general charge of the financial affairs of the Foundation and shall cause to be kept accurate books of accounts. He shall have custody of all funds, securities, and valuable documents of the Foundation, except as the Directors may otherwise provide. He shall promptly render to the President and to the Directors such statements of his transactions and accounts as the President and Directors respectively may from time to time require. The Treasurer shall perform such duties and have such powers additional to the foregoing as the Directors may designate. In the absence or disability of the President, his powers and duties shall be performed by the Treasurer.

**Section 9. Secretary.** The Secretary shall record in books kept for the purpose all votes and proceedings of the Directors at their meetings. The Secretary shall perform such duties and have such powers additional to the foregoing as the Directors shall designate.

#### **Article V - Sponsors, Benefactors, Contributors, Advisors, Friends of the Foundation**

The directors may designate certain persons or groups of persons as sponsors, benefactors, contributors, advisors or friends of the Foundation or such other title as they deem appropriate. Such persons shall serve in an honorary capacity and, except as the directors shall otherwise designate, shall in such capacity have no right to notice of or to vote at any meeting, shall not be considered by purposes of establishing a quorum, and shall have no other rights or responsibilities.

#### **Article VI - Contracts, Loans, Payments**

**Section 1. Contracts.** The Board of Directors may authorize any officer or officers, agent or agents to enter into contracts or execute and deliver any instrument in the name of and on behalf of the Foundation, and such authority may be general or confined to specific instances.

**Section 2. Loans.** No loans shall be contracted on behalf of the Foundation and no evidences of indebtedness shall be issued in its name unless authorized by a resolution of the Board of Directors. Such authority may be general or confined to specific instances.

**Section 3. Payments.** Checks, notes, drafts and other instruments for the payment of money drawn or endorsed in the name of the Foundation may be signed by any two officers or persons authorized by the Directors to sign the same. No officer or person shall sign any such instrument as aforesaid unless authorized by the Directors to do so.

#### **Article VII - Inspection of Records**

Books, accounts, documents and records of the Foundation shall be open to inspection by any Director at all times during the usual hours of business. The original, or attested copies, of the Articles of Organization, By-Laws and records of all meetings of the incorporators and Directors, and records which shall contain the names of all Directors and their record addresses, shall be kept in Massachusetts at the principal office of the Foundation, or at an office of the Secretary or the resident agent, if any, of the Foundation. Said copies and records need not all be kept in the same office.

#### **Article VIII - Seal**

The seal of the Foundation, if any, shall be circular in form, bearing its name, the word "Massachusetts," and the year of its incorporation. The Treasurer shall have custody of the seal and may affix it (as may any other officer if authorized by the Directors) to any instrument requiring the corporate seal.

#### **Article IX - Fiscal Year**

The fiscal year of the Foundation shall be the year ending with October 31 in each year.

#### **Article X - Personal Liability**

The directors and officers of the Foundation shall not be personally liable for any debt, liability or obligation of the Foundation. All persons, corporations or other entities extending credit to, contracting with, or having any claim against, the Foundation, may look only to the funds and property of the Foundation for the payment of any such contract or claim, or for the payment of any debt, damages, judgment or decree, or of any money that may otherwise become due or payable to them from the Foundation.

#### **Article XI - Indemnification of Directors, Officers and Employees**

**Section 1. Right to Indemnification.** The Foundation may to the extent legally permissible and only to the extent that the status of the Foundation as an organization exempt under Section 501(c)(3) of the Internal Revenue Code is not affected thereby, indemnify and reimburse out of the funds of the Foundation any person (or the personal representative of any person) who at any time serves or shall have served as a Director, officer or employee of the Foundation, or who serves or shall have served at its request as a Director, officer or employee of another organization in which it has an interest, whether

or not in office at the time, against and for any and all claims and liabilities to which he/she may be or become subject by reason of such service, and against and for any and all expenses necessarily incurred in connection with the defense or reasonable settlement of any legal or administrative proceedings to which he/she is made a party by reason of such service, except with respect to any matter as to which he/she shall have been adjudicated in any proceeding not to have acted in good faith in the reasonable belief that his/her action was in the best interests of the Foundation. In effecting such indemnity and reimbursement, the Directors of the Foundation may enter into such agreements and direct the officers of the Foundation to make such payment or payments and take such other action (including employment of counsel to defend against such claims and liabilities) as may in their judgment be reasonably necessary or desirable. Such indemnification or reimbursement shall not be deemed to exclude any other rights or privileges to which such person may be entitled.

**Section 2. Indemnification in Advance of Final Disposition of Action.** Indemnification to the persons specified in Section 1 may include payment by the Foundation of expenses incurred in defending a civil or criminal action or proceeding in advance of the final disposition of such action or proceeding upon receipt of an undertaking by the person indemnified to repay such payment if he/she shall be adjudicated to be not entitled to indemnification under this by-law or under the laws of the Commonwealth of Massachusetts.

**Section 3. Insurance.** The Foundation may purchase and maintain insurance on behalf of any person who is or was a Director, officer, employee or other agent of the Foundation, or is or was serving at the request of the Foundation as a Director, officer, employee or other agent of another organization, in which it has an interest, against any liability incurred by him/her in any such capacity, or arising out of his/her status as such.

## **Article XII - Personal Financial Interest**

**Section 1.** No person shall be disqualified from holding any office by reason of any financial interest in any concern doing business with the Foundation. In the absence of fraud, any Director or officer of the Foundation individually, or any individual having any financial interest in any concern in which any such Director or officer has any interest, may be a party to, or may be pecuniarily or otherwise interested in, any contract, transaction, or other act of the Foundation, and (1) such contract, transaction, or act shall not be in any way invalidated or otherwise affected by that fact provided that the procedure set forth in Section 2 is complied with; (2) no such Director or officer shall be liable to account to the Foundation for any profit or benefit realized through any such contract, transaction, or act. Any such Director of the Foundation may not be counted in determining the existence of a quorum at any meeting of the Board or of any committee thereof which shall authorize any such contract, transaction, or act. The term "interest" shall include personal interest and interests as a Director, officer, stockholder, shareholder, partner, trustee, member or beneficiary of any concern; the term "concern" meaning any Foundation, association, trust, partnership, firm, person, or other entity other than the Foundation.

**Section 2.** In the event that a business relationship exists between a Director or officer with the Foundation or any of its divisions, the following procedures will be undertaken so that a potential conflict of interest will be avoided:

- a) During its annual deliberation of the Corporation's budget, the Board shall review such relationships.
- b) The Director or officer involved shall abstain from voting on all matters which include funds for this relationship. Further restrictions, including a prohibition of presence and/or discussion by this person, may be imposed by the Board of Directors.

The intent of this provision is not to discourage business relationships as described above, but rather to encourage participation by creating an appropriate procedural mechanism for both the director/officer and the Foundation.

### **Article XIII - Amendments**

The Directors may make, amend, or repeal these By-Laws, in whole or in part by the affirmative vote of a majority of the Directors present and voting at any meeting at which a quorum is present, providing that all Directors have been notified of the proposed changes at least 30 days in advance of the meeting.

*The Foundation by-laws were revised at the Annual Meeting on September 23, 2015 by a vote of the Board of Directors.*