

# Bylaws of Friends of Penobscot Bay

Adopted 9/14/12

## ARTICLE I. NAME

The name of this corporation shall be **Friends of Penobscot Bay**

## ARTICLE II. OFFICE AND REGISTERED AGENT

**Section 1. Principal Office.** The principal office for the transaction of business of the Corporation shall be located in the State of Maine at the location selected from time to time by the Board of Directors.

**Section 2. Other Offices.** The Board of Directors of the Friends of Penobscot Bay (hereafter also referred to as Organization or Corporation) may at any time establish branch or subordinate offices at any place or places, within or without the State of Maine.

**Section 3. Registered Office and Agent.** The Corporation shall have and continuously maintain a registered office and a registered agent in the State of Maine, as required by the Maine State Revised Statutes, Title 13-B, Maine Nonprofit Corporation Act. The registered agent shall be either an individual resident of the State or a corporation as agreed to by the Friends of Penobscot Bay Board of Directors, hereafter also referred to as the Directors, authorized to transact business in the State.

## ARTICLE III. PURPOSES

**Section 1. Purpose** Friends of Penobscot Bay is organized exclusively for charitable, religious, scientific and educational purposes within the meaning of Section 501(c)(3) of the Internal Revenue Code, 1986, or the corresponding provision of any future federal tax code.

The Friends of Penobscot Bay will oversee, protect and replenish the natural environment and resources needed for Penobscot Bay to host diverse and abundant commercial and recreational fisheries and scenic tourism. The Friends of Penobscot Bay will represent the ecological interests of the bay and its fishery and tourism sectors, before local state and federal agencies, departments, committees and courts.

Notwithstanding any other provision of the Article of Incorporation or the Bylaws, this Corporation shall not, except to an insubstantial degree, engage in any activities or exercise any powers that are not in furtherance of the purposes of this Corporation.

### **Section 2. Limitations.**

**A.** No part of the net earnings or other assets of the Corporation shall inure to the benefit of any member, Director or Officer of the Corporation, or any private individual (except that reasonable compensation may be paid for services rendered to or for the Corporation in carrying out one or more of its purposes).

**B.** The Corporation shall be an equal opportunity and affirmative action employer, and it shall not discriminate on the basis of age, race, religion, color, creed, sex, sexual preference, handicap or national origin:

(I) in the persons served by the Corporation;

(ii) in the hiring, assignment, promotion, salary of contractors or employees;

(iii) in the membership of its Board of Directors

**C.** The Corporation shall neither have nor exercise any power, nor shall it engage directly or indirectly in any activity that would invalidate its status as a Corporation that is exempt from federal income taxation as an organization described in Section 501 [C] [3] of the Internal Revenue Code of 1986, or any successor provision.

## **ARTICLE IV. BOARD OF DIRECTORS**

**Section 1. Powers.** There shall be a Board of Directors, which will supervise, control, and be responsible for the business, property, finances, and affairs of the Corporation, except as otherwise expressly provided by law, the Articles of Incorporation of the Corporation, or these Bylaws.

**Section 2. Number** The number of Directors shall be as set by the Board of Directors from time to time, provided there shall always be at least three (3) and not more than fifteen (15) Directors. The number of directors may be decreased, but no decrease shall have the effect of shortening the term of any incumbent director.

**Section 3 Selection & Term of Office** The incorporators shall appoint the first Board of Directors. Thereafter, members of the Board shall be elected by the voting members at the annual meeting of the Board as necessary to fill vacancies. Directors will serve staggered terms of 1,2 and 3 years and until their successors are elected and qualified, except in the case of their earlier resignation, removal from office or death. After that, all terms are three years. Prior to expiration of Directors' terms, the Board of Directors then in office shall elect or reelect Directors to serve or succeed the Directors whose terms are expiring. Board members are limited to two consecutive terms in office.

**Section 4. Resignation.** Any director may resign at any time by giving written notice to the Chair of the BOD. Such resignation shall take effect at the time specified therein, or, if no time is specified, at the time of acceptance thereof as determined by the Chair.

**Section 5. Removal.** Any director or officer may be removed from such office, with or without cause, by two thirds of the Board of Directors at any regular or special meeting of the members called expressly for that purpose.

**Section 6. Vacancies.** Vacancies shall be filled by majority vote of the remaining members of the BOD for the unexpired term.

**Section 7. Regular Meetings.** A regular annual meeting of the BOD of the Corporation shall be held each year, at such time, day, and place as shall be designated by the BOD.

**Section 8. Special Meetings.** Special meetings of the BOD may be called at the direction of the Chair or by a majority of the voting directors then in office, to be held at such time, day, and place as shall be designated in the notice of the meeting.

**Section 9. Notice.** Notice of the time, day, and place of any meeting of the BOD shall be given at least 1 week ] previous to the meeting and in the manner set forth in Section 2 of Article VII. The purpose for which a special meeting is called shall be stated in the notice. Any director may waive notice of any meeting by a written statement executed either before or after the meeting. Attendance and participation at a meeting without objection to notice shall also constitute a waiver of notice.

**Section 10. Quorum.** A majority of the directors then in office shall constitute a quorum for

the transaction of business at any meeting of the BOD.

**Section 11. Manner of Acting.** Except as otherwise expressly required by law, the Articles of Incorporation of the Corporation, or these Bylaws, the affirmative vote of a majority of the directors present at any meeting at which a quorum is present shall be the act of the BOD. Each director shall have one vote. Voting by proxy shall be permitted.

**Section 12. Unanimous Written Consent In Lieu of a Meeting.** The Board may take action without a meeting and/or by email if written consent to the action is signed by all of the directors. Decisions by email on issues other than ordinary business like choosing a meeting date may only be made if there is a unanimous vote. If discussion is needed, a special meeting may be called which may be a conference call. See Sec 13 below.

**Section 13. Telephone Meeting.** Any one or more directors may participate in a meeting of the BOD by means of a conference call or similar telecommunications device like Skype, which allows all persons participating in the meeting to hear each other. Participation by telephone shall be equivalent to presence in person at the meeting for purposes of determining if a quorum is present.

## **ARTICLE V. OFFICERS**

**Section 1. Officers.** The officers of Friends of Penobscot Bay shall be President, Secretary, and a Treasurer. The Corporation shall have such other assistant officers as the BOD may deem necessary, and such officers shall have the authority prescribed by the BOD. One person may hold more than one office, other than the offices of President and Secretary.

**Section 2. Election of Officers.** All officers shall be elected to office from among the Directors then serving at the time of the election.

**Section 3. Vacancies.** The President, the Secretary and the Treasurer of the Corporation, and all other officers shall be elected to serve a one (1) year term and, except in the case of death, resignation or removal, shall hold office until their successors are chosen and qualify. Any officer may be removed, with or without cause, at any time, at any Board of Directors meeting at which a quorum is present by a vote of two-thirds of the number of Directors then serving in office. Vacancies among officers shall be filled by a majority vote of the Directors present any regular or special meeting of the Board of Directors at which a quorum is present.

**Section 4. Term of Office.** The officers of the Corporation shall be installed at the annual meeting, regular, or special meeting at which they are elected and shall hold office for one year until the next annual meeting or until their respective successors shall have been duly elected.

**Section 5. Resignation.** Any officer may resign at any time by giving written notice to the Chair of the BOD. Such resignation shall take effect at the time specified in the notice, or if no time is specified, then immediately.

**Section 6. Vacancies.** A vacancy in any office shall be filled by the BOD for the unexpired term.

**Section 7. President** The President shall be the chief executive officer of the Corporation, shall preside at all meetings of the Board of Directors, shall have charge of the general management of the business of the Corporation, and shall see that all orders and resolutions of the Board of Directors are carried into effect.

**Section 8. Secretary** The Secretary shall attend all meetings and keep the minutes of the meetings of the BOD in a book kept for that purpose, The Secretary shall perform such other duties as prescribed by the Board of Directors or the President, under whose supervision the Secretary shall function.

**Section 9. Treasurer.** The Treasurer shall have custody of the Corporate funds and shall keep full and accurate accounts of receipts and disbursements in books kept for that purpose. The Treasurer shall perform such other duties as may be prescribed by the by the Board of Directors or the President under whose supervision the Treasurer shall function.

## **ARTICLE VI. MEMBERSHIP**

**Section 1. Classes and Qualifications.** The BOD shall determine the qualifications, terms, and other conditions of each class of member.

There shall be the following classes of members: Individual, organizations and corporate. Members are those individuals, organizations or corporations who contribute to or who support the mission of the organization. There may be annual dues for membership.

**Section 2. Voting Rights.** Members do not have voting rights at meetings of the Board of Directors but may otherwise attend and fully participate in FOPB activities, missions and meetings and may make application to participate on the Board of Directors.

**Section 3. Membership Meetings.** Membership meetings will be called as necessary to carry out the purposes of Friends of Penobscot Bay.

## **ARTICLE VII. COMMITTEES**

**Section 1. Executive Committee.** Between meetings of the BOD, the day-to-day affairs of the Corporation may be conducted by an Executive Committee, the membership of which shall be as determined by the BOD.

**Section 2. Other Committees.** The Board may create additional committees as needed to carry out the purposes of Friends of Penobscot Bay.

**Section 3. Term of Office.** Each member of a committee shall serve for one year until the next annual meeting of the BOD and until a successor is appointed, unless the committee is sooner dissolved.

**Section 4. Vacancies.** Vacancies in the membership of committees may be filled by the Chair of the Board and the Chair may act as an Ex Officio member.

**Section 5. Rules.** Each committee and task force may adopt rules for its meetings not inconsistent with these Bylaws or with any rules adopted by the BOD.

## **ARTICLE VIII. INDEMNIFICATION**

Unless otherwise prohibited by law, the Corporation may indemnify any director or officer or any former director or officer, and may by resolution of the BOD indemnify any employee, against any and all expenses and liabilities incurred by him or her in connection with any claim, action, suit, or proceeding to which he or she is made a party by reason of being a director, officer, or employee. However, there shall be no indemnification in relation to matters

as to which he or she shall be adjudged to be guilty of a criminal offense or liable to the Corporation for damages arising out of his or her own gross negligence in the performance of a duty to the Corporation.

Amounts paid in indemnification of expenses and liabilities may include, but shall not be limited to, counsel fees and other fees; costs and disbursements; and judgments, fines, and penalties against, and amounts paid in settlement by, such director, officer, or employee. The Corporation may advance expenses or, where appropriate, may itself undertake the defense of any director, officer, or employee. However, such director, officer, or employee shall repay such expenses if it should be ultimately determined that he or she is not entitled to indemnification under this Article.

The BOD may also authorize the purchase of insurance on behalf of any director, officer, employee, or other agent against any liability incurred by him which arises out of such person's status as a director, officer, employee, or agent, whether or not the Corporation would have the power to indemnify the person against that liability under law.

## **ARTICLE IX. CONFLICTS OF INTEREST**

**I. Purpose.** The purpose of the conflict of interest policy is to protect FoPB's interest when it is contemplating entering into a transaction or arrangement that might benefit the private interest of an officer or director of the Organization. This policy is intended to supplement but not replace any applicable state and federal laws governing conflict of interest applicable to nonprofit and charitable organizations.

### **II. Definitions**

1. Interested Person Any director, principal officer, or member of a committee with governing board delegated powers, who has a direct or indirect financial interest, as defined below, is an interested person.

2. Financial Interest A person has a financial interest if the person has, directly or indirectly, through business, investment, or family:

- a. An ownership or investment interest in any entity with which the Organization has a transaction or arrangement,
- b. A compensation arrangement with the Organization or with any entity or individual with which the Organization has a transaction or arrangement, or
- c. A potential ownership or investment interest in, or compensation arrangement with, any entity or individual with which the Organization is negotiating a transaction or arrangement.

3 Compensation includes direct and indirect remuneration as well as gifts or favors that are not insubstantial.

A financial interest is not necessarily a conflict of interest. Under Article III, Section 2, a person who has a financial interest may have a conflict of interest only if the appropriate governing board or committee decides that a conflict of interest exists.

### **III. Procedures**

#### **1. Duty to Disclose**

In connection with any actual or possible conflict of interest, an interested person must disclose the existence of the financial interest and be given the opportunity to disclose all

material facts to the directors and members of committees with governing board delegated powers considering the proposed transaction or arrangement.

## **2. Determining Whether a Conflict of Interest Exists**

After disclosure of the financial interest and all material facts, and after any discussion with the interested person, he/she shall leave the governing board or committee meeting while the determination of a conflict of interest is discussed and voted upon. The remaining board or committee members shall decide if a conflict of interest exists.

### ***Annual Statements***

Each director, principal officer and member of a committee with governing board delegated powers shall annually sign a statement which affirms such person:

- a. Has received a copy of the conflicts of interest policy,
- b. Has read and understands the policy,
- c. Has agreed to comply with the policy, and
- d. Understands the Organization is charitable and in order to maintain its federal tax exemption it must engage primarily in activities which accomplish one or more of its tax-exempt purposes.

### **Periodic Reviews**

To ensure the Organization operates in a manner consistent with charitable purposes and does not engage in activities that could jeopardize its tax-exempt status, periodic reviews shall be conducted. The periodic reviews shall, at a minimum, include the following subjects:

- a. Whether compensation arrangements and benefits are reasonable, based on competent survey information, and the result of arm's length bargaining.
- b. Whether partnerships, joint ventures, and arrangements with management organizations conform to the Organization's written policies, are properly recorded, reflect reasonable investment or payments for goods and services, further charitable purposes and do not result in inurement, impermissible private benefit or in an excess benefit transaction.

## **ARTICLE X. AMENDMENTS TO BYLAWS**

These Bylaws may be amended or new Bylaws adopted upon the affirmative vote of a majority of the voting members at any regular or special meeting of the Board. The notice of the meeting shall set forth a summary of the proposed amendments. The Bylaws should be reviewed every 5 years.

## **ARTICLE Xi. DISSOLUTION**

Upon the dissolution of the Organization, assets shall be distributed for one or more exempt purposes within the meaning and guidance under the Maine State Statutes, Title 13-B: Maine Nonprofit Corporation Act, Chapter 11: Dissolution.

**END OF BYLAWS** Adopted 9/14/12