

**BY-LAWS
OF
YARMOUTH DEVELOPMENT CORPORATION
(A NON-PROFIT CORPORATION)**

ARTICLE I

Offices

The registered office of the corporation shall be located in the Town of Yarmouth, County of Cumberland and State of Maine. The corporation may also have such offices at such other places within or without the state, which the directors may from time to time determine.

ARTICLE II

Name and Purpose

Section 1. Name. The name of the corporation shall be Yarmouth Development Corporation.

Section 2. Purpose. The corporation shall be a non-profit organization having the purposes of a “local development corporation” under 5 M.R.S. § 13120-B (9) and is formed under 13-B M.R.S. § 201 et. seq. The corporation is organized and shall at all times be operated exclusively for an essential government function within the meaning of Section 115 of the Internal Revenue Code of 1986, as amended (or the corresponding provision of any future United States Internal Revenue Law).

Within these restrictions, the corporation is organized for the following specific purposes:

1. To foster, assist, promote and support community and economic development, including the settlement or resettlement of industrial, manufacturing, fishing, agricultural, recreational and other business enterprises within the Town of Yarmouth, Maine which may include, among other things, for said purposes purchasing, leasing, owning, improving, managing, supporting, developing, and operating real and personal property, community centers, cultural development facilities, housing, environmental remediation land sites, and providing business financing, grant acceptance and administration, and other economic development initiatives;
2. To create and enhance employment opportunities for the people of Yarmouth by offering education services that provide guidance and support to businesses in Yarmouth, thus easing governmental burdens; and
3. To make recommendations to the Yarmouth Town Council and Planning Board regarding the acquisition, management, disposal, and general land use of property owned by the Town of Yarmouth.

ARTICLE III

Membership

The corporation shall have no membership.

ARTICLE IV

Board of Directors

Section 1. Powers of Board of Directors. The board of directors shall manage the activities of the corporation.

Section 2. Number and Selection.

A. The board of directors shall consist of not less than five (5) directors nor more than seven (7) directors or such other number specified in the Articles of Incorporation or any amendments thereto. The majority of board of director members shall be Town of Yarmouth residents. The directors shall be appointed by a majority vote of the Town Council.

B. The board of directors shall include between two (2) and three (3) members of the Economic Development Advisory Board, and the remainder from the public at large recommended by the ex officio members of the board.

C. In addition, the board of directors shall include the following ex-officio members of the board of directors:

- (i) the persons holding the staff positions of Town Manager and Director of Economic Development.
- (ii) two (2) members the Yarmouth Town Council.

Ex-officio members shall have no right to vote and shall serve so long as they remain in those positions or, in the case of members of the Yarmouth Town Council, until they are replaced by a majority vote of the Town Council.

The board of directors shall be appointed in accordance with the foregoing and Section 3 of this Article. No decrease in the number of directors shall have the effect of shortening the term of any incumbent director.

Section 3. Terms Limit on Terms Served. Directors may serve no more than two (2) successive three-year terms. For clarity, a partial term of less than three (3) years shall not count toward the two (2) term limit, provided that following the expiration of their term a director shall hold office until earlier of the next annual meeting of the directors or the director's successor is duly appointed by the Town Council. The initial terms of the public directors shall be one year,

two years, and three years on a staggered basis. Thereafter, such public directors shall be appointed for three-year terms.

Section 4. Resignation and Removal.

(a) A member of the board of directors may resign from the board by written notice to the secretary or clerk of the corporation and the board of directors. Unless otherwise specified in the notice, the resignation shall take effect upon receipt thereof by the secretary or clerk and the board. Acceptance of such resignation shall not be necessary to make it effective.

(b) Any director may be removed with cause by the affirmative majority vote of the Town Council at a special Town Council meeting called at least twenty (20) days after notice of the proposed removal action has been given to the affected director and to all remaining members of the board of directors,

Section 5. Vacancies. Vacancies shall be filled by the Town Council, as set forth in Section 2 of this Article.

Section 6. Meetings of the Board of Directors.

(a) Annual meetings. A meeting shall be held annually on June 30th of each calendar year, or on such other date or at such other time as shall be designated by the board of directors of the corporation and stated in the notice of the meeting, at which the board will elect officers of the corporation and transact such other business as may be properly brought before the meeting. Notice of the annual meeting shall be delivered not less than 10 nor more than 50 days before the date of the meeting.

(b) Regular meetings. Regular meetings of the board of directors shall be held in such places and at such times as the board may determine.

(c) Special meetings. Special meetings of the board of directors may be held at any time or place and may be called by the president or on the written request of a majority of the board of directors. Reasonable written or oral notice thereof shall be given to each director by the officer calling the meeting. Such special meetings shall be held at such times and places as the notice thereof shall specify.

(d) Public Meetings. All meetings shall be open to the public except as provided under 1 M.R.S. Section 405. A record of such meetings shall be maintained in accordance with 1 M.R.S. Section 403.

Directors shall be deemed to be in attendance at meetings if they participate via telephone or other electronic medium, provided they can hear the Board's discussion and can communicate effectively with other attending directors.

Section 7. Quorum. A majority of the number of directors fixed by the by-laws or Articles of Incorporation shall constitute a quorum for the transaction of business, but a lesser number may adjourn any meeting from time to time, and the same may be held as adjourned without further notice. When a quorum is present at any meeting, a majority of the directors' present shall decide any question brought before such meeting.

Section 8. Unanimous Action. Unless otherwise provided by the articles of incorporation, any action required to be taken at a meeting of the directors or any action which may be taken at a meeting of the directors may be taken without a meeting, if all of the directors sign written consents setting forth the action taken or to be taken, at any time before or after the intended effective date of such action. Such consents shall be filed with the minutes of directors' meetings and shall have the same effect as a unanimous vote. Any such consent may be executed on any number of separate counterparts, each of which when so executed and delivered shall be an original, but all such counterparts shall together constitute but one and the same document. All signatures need not be on the same counterpart.

Section 9. Electronic Communication. Any communication required or permitted under these Bylaws to be made in writing may be made by the following (collectively, "EMAIL"): (a) email, if the recipient has furnished the address to the sender and has not provided any change to or revocation of the address, or (b) other electronic communication medium to which the recipient has consented in writing to the use of such medium for such purposes (and if the recipient is the corporation, from which the recipient may print a copy of the communication), to an address furnished by the recipient to the sender and not changed or revoked in writing. If the sender promptly receives a notice of failure of delivery of any EMAIL, the communication shall be deemed not to have been made. An EMAIL clearly stating consent by the sender shall constitute a signature by the sender, even if the item consented to is a document with a signature line which would otherwise be signed by the sender (in which case a copy of such document with the EMAIL attached shall constitute a copy signed by the sender). EMAIL notices may be followed up by hard-copy notices by U.S. mail or courier to the last address provided by the recipient to the corporation; provided that failure to provide such follow-up shall not invalidate the notice.

Section 10. Committees. The board by vote of a majority of the whole board may designate an executive committee, said committee to consist of two or more of the directors, which, to the extent provided in said vote or in these by-laws and allowed by law, shall have, and may exercise the powers of the board in the execution of the affairs of the corporation and may have power to authorize the seal of the corporation to be affixed to all papers which may require it. The board of directors may also designate such other committees as the board deems necessary. Such executive committee or other committees shall have such name or names as may be stated in these by-laws or as may be determined from time to time by vote of the board. All such committees shall keep regular minutes of their proceedings and report the same to the board when required and shall be subject to Section 6(d) above

ARTICLE V

Officers

Section 1. Principal Officers. The corporation shall have a Chairperson and a Vice Chairperson. In addition, the principal officers shall be a president, a vice president, unless the board of directors elects for such roles to be undertaken by the Chairperson and Vice Chairperson, a secretary or clerk, and a treasurer, each of whom shall be elected annually by the board of directors. The Corporation shall maintain a registered agent who shall remain in such position until the corporation changes its registered agent in the manner prescribed by law. The registered agent shall be an individual resident of the State of Maine or a domestic or foreign corporation authorized to transact business in Maine.

Section 2. Additional Officers. The board of directors, in its discretion, may appoint such other officers, agents or employees as it may deem advisable, and prescribe the powers, duties and tenure thereof.

Section 3. Duties.

(a) Chairperson. The Chairperson of the board of directors, when present, shall chair all meetings of the Board of Directors. He or she shall inform him-or-herself concerning all affairs of the Corporation and see that the duties of the officers and staff ex-officio members are properly discharged; that the Bylaws of the Corporation are observed; and that all statements and returns required by law are made; and, he or she shall assume such share in the management of the business as the directors may determine. The Chairperson of the Corporation shall appoint such committees as he or she deems necessary, subject to the approval of the board of directors. In addition, in the event that the board of directors elects not to appoint a separate person to serve as President, the Chairperson shall perform all functions otherwise designated hereby to be performed by the President.

(b) Vice-Chairperson. The Vice-Chairperson shall perform such duties as are assigned to him or her by the Chairperson of the Board. In the absence of the Chairperson, he or she shall perform the duties of that office.

(c) The President. The president shall be the chief executive officer of the corporation and, when present, shall preside at all meetings of the board of directors. He/she shall have the general management of the affairs of the corporation, subject to the discretion of the board of directors. Unless some other person is thereunto duly authorized by vote of the board of directors, and unless the treasurer shall sign, he/she shall sign all checks and drafts of the corporation and shall perform such other duties and have such other powers as are commonly incident to his/her office and as the board of directors from time to time may designate.

(d) The Treasurer. The treasurer shall direct the keeping of the accounts of the corporation and direct and attend to the depositing of the funds and securities of the corporation in such depositories or with such custodians as the board of directors shall

designate. Unless the board of directors by vote directs otherwise, he/she may endorse for deposit or collection all notes, checks and other instruments payable to the corporation or its order, and may accept drafts on behalf of the corporation. In addition, he/she may sign all checks and drafts of the corporation, unless some other person is thereunto specifically authorized by vote of the board of directors.

(e) The Secretary or Clerk. The secretary or clerk shall keep the minutes of the meetings of the board of directors and shall serve all notices for the corporation which shall have been authorized by the board of directors, the president, or any other authorized officer.

(f) The Registered Agent. The registered agent shall keep accurate records of the meetings of the board of directors, including records of all votes and minutes taken by the secretary or clerk, in a book kept for that purpose. The agent shall have custody of the corporate seal and shall have the power to affix and attest the same to the contracts, deeds and other documents of the corporation when necessary or appropriate. The agent shall have custody of the permanent records of the corporation. In addition, the agent shall perform such other duties and have such other powers as the board of directors from time to time may designate. For clarity, the Registered Agent need not be a director of the Corporation.

Section 4. Resignation and Removal.

(a) An officer of the corporation may resign his or her position by written notice to the secretary and the board of directors. Unless otherwise specified in the notice, the resignation shall take effect upon receipt thereof by the secretary and the board. Acceptance of such resignation shall not be necessary to make it effective. A registered agent of the corporation may resign as such agent by filing a written notice thereof with the Secretary of State and mailing a copy thereof to an officer of the Corporation.

(b) Any officer, agent, or employee elected as provided in Section 1 of this Article or appointed by the board may be removed by a majority vote of the board of directors at a meeting of the board at which a quorum is present.

Section 5. Vacancies. Any vacancy, however occurring, in any office may be filled by a majority vote of the directors. Any officer so elected and required to be elected annually by the board shall hold office until the next annual meeting and until his/her successor is elected and qualified, subject to removal under Section 4 of this Article.

ARTICLE VI

Fiscal Management

Section 1. Fiscal Year. The fiscal year of the corporation shall be June 30th unless fixed by the board of directors from time to time, subject to applicable law.

Section 2. Deposits. All funds of the corporation shall be deposited to the credit of the corporation in such banks or trust companies or other depositories as the board of directors may designate.

Section 3. Checks. All checks and orders for the payment of money shall be executed on behalf of the corporation by the treasurer or by the president, or by such other officer or employee as the board of directors may from time to time designate, subject to such requirements as to counter signature or other conditions as the board may from time to time determine.

Section 4. Contracts and Notes. All contracts and deeds and all promissory notes and other obligations of the corporation other than checks and drafts shall be signed, with the prior authorization of the board of directors, by the president unless the board shall specifically authorize signature by some other officer or agent.

Section 5. Net Earnings. No part of the net earnings 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), and no member, director, or officer of the corporation, or any private individual, shall be entitled to share in the distribution of any of the corporate assets on dissolution of the corporation.

Section 6. Annual Funding/Financing.

(a) Annual Funding. The corporation may finance its operations as permitted by law, including requesting funding from the Town of Yarmouth municipal funds. The board of directors shall advise the Director of Economic Development and Town Manager of the corporation's financial needs for funding of expenses including, but not limited to, staffing assistance, liability insurance, tax preparation and legal contingencies. The Town Manager will make such needs known to the Town Council annually, or as requested by the board of directors. It is anticipated that such expenses may be paid by the Town through the Tax Increment Financing (TIF) program development fund, annual general fund appropriations, or through direct appropriations by the Town Council, subject to the normal budget development and approval process.

(b) Acceptance of donations, grants, financing, funding. The board of directors shall have the authority to accept financial donations, estate bequeaths, and private, state or federal grants. The Board shall also have the authority to receipt and reinvest proceeds from real estate transactions. Furthermore, The Board shall also have the authority to accept funds through private financing to further the mission of the Corporation.

(c) Funding and Disbursing Policies. The board of directors shall prescribe the forms and procedure for receiving and disbursing all funds due or entrusted to the corporation. In furtherance of the purposes of the corporation, the board of directors shall have the power to purchase, hold, sell or lease real estate, construct buildings and mortgage same, incur debts, borrow money and enter into contracts of every kind and nature, and to perform such other acts and duties as may be legal and necessary in furtherance of the purposes of the corporation.

(d) Annual Reports. The corporation shall prepare an annual financial report no later than sixty days following the end of the fiscal year, which annual financial report shall be made available to the Town Council. In addition, the corporation may provide a report of its activities which report shall be made available to the Town Council.

Section 7. Dissolution of the Corporation. Upon the dissolution of the corporation or the termination of its activities, the assets of the corporation remaining after the payment of all its liabilities shall be distributed exclusively to the Town of Yarmouth, or by authorization of the Town Council to one or more organizations organized and operated exclusively for such purposes as shall then qualify as an exempt organization or organizations under Section 501(c)(3) of the Internal Revenue Code of 1986, as amended, and as a charitable, religious, eleemosynary, benevolent or educational corporation within the meaning of Title 13B of the Maine Revised Statutes, as amended.

Section 8. Amendments. These by-laws may be altered, amended or repealed or new by-laws may be adopted by the recommendation of the board of directors and a final approval via a majority vote of the Town Council.

Section 9. Conflict. In the event of any conflict between these by-laws and the provisions of applicable statutes, the latter shall control.

Section 10. Tax Reporting. The corporation shall be tax exempt in accordance with Section 115 of the I.R.C. or corresponding section of any future federal tax code.

ARTICLE VII

Indemnification

Section 1. Right to Indemnification. The corporation shall indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action, suit or proceedings, whether civil, criminal, administrative or investigative, by reason of the fact that he/she is or was a director, officer, employee or agent of the corporation, or is or was serving at the request of the corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise, against expenses, including attorneys' fees, judgments, fines and amounts paid in settlement actually and reasonably incurred by him/her in connection with such action, suit or proceeding; provided that no indemnification

shall be provided for any person with respect to any matter as to when he/she shall have been finally adjudicated in any action, suit or proceeding not to have acted in good faith in the reasonable belief that his/her action was in the best interests of the corporation, or with respect to any criminal action or proceedings, had reasonable cause to believe that his/her conduct was unlawful. The termination of any action, suit or proceeding by judgment, order, or conviction adverse to such person, or by settlement or plea of nolo contendere or its equivalent, shall not in itself create a presumption that such person did not act in good faith in the reasonable belief that his/her action was in the best interests of the corporation, and, with respect to any criminal action or proceeding, had reasonable cause to believe that his/her conduct was unlawful.

Section 2. Indemnity Against Expense. Any provision of Section 1 of this Article to the contrary notwithstanding, to the extent that a director, officer, employee or agent of the corporation has been successful on the merits or otherwise in defense of any action, suit or proceeding referred to in Section 1, or in defense of any claim, issue, or matter therein, he/she shall be indemnified against expenses, including attorneys' fees, actually and reasonably incurred by him/her in connection therewith.

Section 3. Insurance. The corporation shall purchase insurance against liability of any such person to the extent permitted by law.

ARTICLE VIII – CONFLICT OF INTEREST/EMPLOYMENT

Unless otherwise amended or replaced by a vote of the board of directors, the corporation's directors, officers, and employees shall be subject to a conflict-of-interest policy adopted by the board of directors. Any such conflict-of-interest policy shall be consistent with the requirements of the internal revenue service with respect to the corporation's not-for-profit designation as an instrumentality of the Town of Yarmouth under Section 115 and a Maine non-profit corporation in accordance with Title 13B of the Maine Revised Statutes, as amended.

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, financial status, or national origin:

ARTICLE IX – EFFECTIVE DATE

These Bylaws shall take effect from the time of their adoption by a majority vote of the Town Council.