

THIRD AMENDED AND RESTATED BYLAWS

of

OTSEGO LAKE ASSOCIATION

(a Michigan nonprofit corporation)

ARTICLE I – OFFICES

1.1 Principal Office. The principal office of the Otsego Lake Association (the “Association”) shall be 5209 Park Ridge Avenue, Gaylord, Michigan 49735, but may be changed to such place within the State of Michigan as the Board of Directors shall determine.

1.2 Other Offices. Other offices for the Corporation may be designated by the Board of Directors as the business of the Corporation may require.

ARTICLE II – PURPOSES

2.1 Purpose. The purposes of the Association shall be to provide leadership including but not limited to recreational opportunities and preservation, protection, and improvement of the environmental quality of Otsego Lake and its surrounding watershed. When appropriate, the Association may bring to the attention of township, county and state government officials, incidents and conditions that affect the future environment and water quality of Otsego Lake. In addition to the foregoing, the Association may undertake any other lawful purposes as the Board may from time to time determine or the business of the Association may require.

ARTICLE III – MEMBERSHIP AND DUES

3.1 Membership. Membership in the Association shall be open to persons, businesses and other groups supporting the Association’s purposes as stated in Article II.

3.2 Dues. Membership dues shall be paid annually in such amounts as determined by the Board of Directors with said dues deemed reasonable, fair and appropriate to assist the Association in attaining its mission and goals. The membership year is January 1 - December 31 of the calendar year. Any member who shall fail to pay annual dues within such reasonable time, as determined by the Board of Directors, shall forfeit membership and all rights thereof.

ARTICLE IV – BOARD OF DIRECTORS

4.1 General. It is the responsibility of the Board of Directors to manage the business, property, and affairs of the Association subject to applicable law and in accordance with the purposes and limitations set forth in the Articles of Incorporation and herein. The Board of Directors shall exercise all of the powers and authority of the Association, subject to these Bylaws.

4.2 Number. The Board of Directors shall consist of a minimum 7 members of the Association.

4.3 Term. Directors shall be elected to serve three-year terms with staggered terms of office. Directors shall hold office until the expiration of the term for which they were elected and shall continue in office until their successors shall have been duly qualified. The election of the directors with staggered terms of office shall be completed as follows:

a. The directors will be divided into three classes, each to be as nearly equal in number as possible.

b. The terms of the office of directors in the first class shall expire at the first annual meeting of the members of the Association after their election, that of the second class shall expire at the second annual meeting after their election, and that of the third class, shall expire at the third annual meeting after their election.

c. At each annual meeting of the members of the Association after the classification established under subdivision b above, a number of directors equal to the number of the class whose term expires at the time of the meeting shall be elected to hold office until the third succeeding annual meeting.

d. At the first election of the directors with staggered terms of office, the members of the Association shall elect the specific directors to serve in each of the three classes; with the directors of the first class only serving for an initial one-year term, the directors of the second class serving for an initial two-year term, and the directors of the third class serving an initial three-year term. All subsequent terms of each class shall be for three years.

4.4 Quorum and Voting. A majority of the directors shall constitute a quorum for the transaction of Association business. The act of a majority of the directors present or voting as provided herein, at a meeting at which a quorum is present, shall be the act of the Board of Directors.

4.5 Meeting by Telephone or Similar Equipment. A director may participate in a meeting by conference telephone or any similar communications equipment through which all persons participating in the meeting can hear each other. Participation in a meeting pursuant to this section constitutes presence in person at the meeting.

4.6 Consent to Corporate Actions. Unless prohibited by the Articles of Incorporation, any action required or permitted to be taken at a board meeting may be taken without a meeting if all members of the Board of Directors consent before or after the action in writing or by electronic transmission. The consents must be filed with the minutes of the Board of Directors' proceeding. The consents have the same effect as director votes.

4.7 Meetings; Notice. Regular or special meetings of the Board of Directors may be held pursuant to a call from any officer of the Association or as determined by the Board of Directors upon notice, by mail, email, text or telephone call, to the directors not less than 2 days before the date of such meeting, unless such notice be requested in writing by all directors. Neither the business to be transacted at, nor the purpose of, any special meeting of the Board of Directors need be stated in any notice or waiver of notice of such meeting.

4.8 Appointment of Other Agents. Nothing herein shall limit the right of the Board of Directors to hire employees, consultants or other sub-contractors and to pay reasonable compensation for services performed by such persons on behalf of the Association.

4.9 Resignation. Any director may resign from the Board at any time by giving written notice to the Board, the President, or the Secretary of the Corporation. Unless otherwise specified in the notice, the resignation shall take effect at the time of receipt by the Board or such officer. The acceptance of such resignation shall not be necessary to make it effective. No resignations shall discharge any accrued obligation or duty of a director.

4.10 Removal. Any member of the Board of Directors whose dues are in arrears for a period of 60 days or more may be removed from the board by vote of the Board of Directors, excluding said delinquent director. Any board member who has accumulated six (6) excused absences or three (3) unexcused absences from the board meetings in a one-year period may be removed from the board. Excused absence is obtained by notifying the secretary or president prior to the start of said board meeting.

4.11 Vacancies; Filling of Vacancies. Vacancies on the Board of Directors shall be filled by the vote of the majority of the remaining directors at any regular or special meeting of the Board of Directors.

ARTICLE V – OFFICERS

5.1 Identity; Selection; Term. The officers of the Association shall be a President, one or more Vice-Presidents (as determined by the Board of Directors), a Secretary and a Treasurer. They shall be elected annually by the Board of Directors from their number and shall serve without compensation until their successors shall have been duly qualified.

5.2 President. The President of the Association shall preside at all board meetings, execute all contracts, agreements and documents which are authorized by the board, appoint committees as designated by the board, and, in general, shall perform all duties incidental to the office and as provided herein. The President may report annually to the membership the activities of the Association during the previous year.

5.3 Vice-President(s). The Vice-President shall perform all the duties of the President in his/her absence or during his/her inability to act. If there are two or more Vice-Presidents they shall be designated as "First-Vice-President," "Second-Vice-President," etc. and shall be responsible to perform the duties of the president in that order.

5.4 Secretary. The Secretary, or appointed designee, shall manage the minutes of all meetings of the members and all proceedings of the Board of Directors and shall maintain an accurate register of all members of the Association and shall be the custodian of the corporate records of the Association.

5.5 Treasurer. The Treasurer shall keep and manage the records of receipts and disbursements, report the financial condition at Board meetings and annual meetings and carry out the policies as adopted by the Board of Directors and or the membership at the annual meeting.

5.6 Removal. With the exception of the President, any officer may be removed from office at any time and for any reason by the Board of Directors.

5.7 Vacancies. Vacancies occurring in any office shall, to the extent practicable, be filled by the Board of Directors on or before the next regularly scheduled meeting of the Board following the creation of the vacancy.

ARTICLE VI – COMMITTEES

6.1 Executive Committee. Members of the Executive Committee shall be the duly elected/appointed officers (President, Vice-president(s), Secretary and Treasurer) and may act for the Board of Directors in intervals between regular or special meetings of the Board. All actions of the Executive Committee shall be reported to the Board of Directors at its next meeting and set forth in the minutes of such meeting.

The Executive Committee shall not have the power or authority to: a) amend the articles of incorporation; b) amend the bylaws; c) adopt an agreement of merger or consolidation; d) cancel or terminate membership in the Association; or e) sell, lease, or exchange all or substantially all of the Association's property and assets.

A majority of the Executive Committee shall be considered a quorum.

6.2 Special Committees. The President may appoint such special committees as he/she deems necessary to carry on the business of the Association.

ARTICLE VII – MEETINGS OF MEMBERS

7.1 Annual Meeting. The annual meeting of the members of the Association may be held at such time and place and on such a date as determined by the Board of Directors.

7.2 Notice. Communication of the date, time and place of each Annual Meeting of members, shall be given to all members by the secretary not less than 30 days before the date of such meeting.

7.3 Quorum. Unless a greater or lesser quorum is required by statute, members present in person or by proxy who, as of the record date, represented a majority of the members entitled to vote at a membership meeting shall constitute a quorum at the meeting. Whether or not a quorum is present, the meeting may be adjourned by vote of the members present.

7.4 Proxies. A member entitled to vote at a membership meeting or to express consent or dissent without a meeting may authorize other persons to act for the member by proxy. A proxy shall be signed by the member or the member's authorized agent or representative and shall not be valid after the expiration of three years, unless otherwise provided in the proxy. A proxy is revocable at the pleasure of the member executing it except as otherwise provided by statute.

7.5 Voting. Each member is entitled to one vote on each matter submitted to a vote, except that only one member is authorized to vote per lakefront parcel. A vote may be cast either orally or in writing. When an action, other than the election of directors, is to be taken by a vote of the members, it shall be authorized by a majority of the votes cast by the members entitled to vote, unless a greater vote is required by statute. Directors shall be elected by a plurality of votes cast at any election.

7.6 Meeting by Telephone or Similar Equipment. A member may participate in a membership meeting by conference telephone or any similar communications equipment through which all persons participating in the meeting can hear each other. Participation in a meeting pursuant to this section constitutes presence in person at the meeting.

7.7 Nomination and Selection of Directors. The Board of Directors shall solicit member applicants in good standing who are interested in running for a seat on the Board of Directors. The Board of Directors shall establish procedures that:

- a. Includes a communication of such a solicitation, with open positions

and qualifications required, communicated to all members prior to the Annual Meeting;

b. Ensures that each member who has expressed a written interest in running for a seat will be added as a candidate for election;

c. Requires each interested member candidate to submit a brief bio and qualifications;

d. Ensures the Board publishes and distributes such prior to the Annual Meeting;

e. Allows nominations from the floor until a motion to close nominations is made and passed by a majority vote of the membership present;

f. Allows each floor nominee the opportunity to verbalize a brief bio and qualifications to the membership;

g. Requires the Secretary to confirm that each member nominated is eligible for election and shall communicate the entire candidate list to the membership; and

h. If possible, displays or projects the complete candidate list, together with the desired terms, to the membership prior to voting.

All voting shall be completed by the membership. After the Annual Meeting, nominations will be compiled and communicated to the membership for voting. The nominees receiving the highest number of votes will be duly elected to the Board of Directors to hold office until the next annual membership meeting and until the director's successor is elected and qualified, or until the director's death, resignation, or removal.

ARTICLE VIII – CONFLICTS OF INTEREST

8.1 General. No director shall use, or attempt to use, his or her official position to secure, request, or unreasonably grant any special consideration, privilege, exemption, advantage, contract, or preferential treatment for himself, herself, or others, beyond that which is available to every other citizen.

8.2 Determination of Conflict. A director shall disclose any conflict of interest which may influence, or be perceived to influence, their decision. The question of whether a potential conflict of interest exists is a matter that should be brought to the board. A conflict may exist where the member has a financial interest in the project, such as a direct relationship in a development, a professional or personal association with the applicant, or the project could be influenced or perceived as influencing or having a direct

impact on the individual's livelihood. Other members of the board may question whether another director has a conflict of interest.

8.3 Disclosure. A board member with a potential conflict of interest should disclose the conflict to the satisfaction of the full membership and the disclosure becomes part of the official record prior to any deliberation on the matter.

8.4 Deliberations and Voting. If a potential conflict is raised, the remaining Board members shall discuss the potential conflict and may vote to determine whether the conflict is significant enough to warrant abstention. A member abstaining due to a conflict shall not participate in the discussion of that item and may leave the Board seating area. The remaining members of the board may require participation of a member if the member is needed for the quorum necessary for official action or to conduct duties as required by law. In such cases, the member with the potential conflict shall not participate in any deliberation or discussion on the motion.

ARTICLE IX – DISSOLUTION

9.1 Dissolution Decision. A dissolution of the Corporation shall be authorized only by the affirmative vote of a majority of directors then in office.

9.2 Dissolution Procedure. If dissolution of the Association is approved, the Association shall cease to conduct its affairs except as may be necessary for the winding up of the organization. The Board of Directors shall:

- a. Pay or make provisions for the payment of all of its liabilities; and
- b. Dispose of all assets, real and personal, of the Association exclusively to one or more organizations selected by the Board of Directors.

ARTICLE X – LIMITATION ON LIABILITY; INDEMNIFICATION

10.1 Liability. No director and/or volunteer director of the Association shall be personally liable to the corporation or its members for monetary damages resulting from breach of the director's fiduciary duty, except for liability arising from:

- a. A breach of the director's duty of loyalty to the corporation or its members;
- b. Acts of omissions not in good faith or which involve intentional misconduct or violation of law;
- c. A transaction from which the director derived an improper personal benefit;

- d. An act or omission that is grossly negligent; or
- e. Voting for or concurring in an action resulting in:
 - i. distribution of assets to members contrary to law or the articles of incorporation,
 - ii. purchase of memberships in the corporation contrary to law or the articles of incorporation,
 - iii. distribution of assets to members during or after dissolution of the corporation without paying or providing for all known debts, obligations and liabilities of the corporation, or contrary to law or the articles of incorporation,
 - iv. making a loan to an officer, director, or employee of the corporation contrary to law, or
 - v. accepting or receiving a distribution from the corporation with knowledge of facts indicating that the distribution is not authorized by law;

provided, however, a director shall not be liable under this subsection if he or she has exercised the good faith, diligence, care, and skill of an ordinarily prudent person in a like position, and he or she has the right to rely upon the opinions of counsel, independent appraisers, financial statements of the Association represented as correct by the President or other officer of the Association or as stated in a written report by an independent public or certified public account.

10.2 Right to Indemnification. Each person who was or is a party to or is threatened to be made a party to or is involved in any action, suit, or proceeding, whether civil, criminal, administrative, or investigative, formal or informal (proceeding), by reason of the fact that he or she, or a person of whom he or she is the legal representative, is or was a director or officer of the Association or, while serving as a director or officer, is or was serving at the request of the Association as a director, officer, partner, trustee, employee, or agent of another foreign or domestic corporation, partnership, joint venture, trust, or other enterprise, whether for profit or not, including service with respect to employee benefit plans, whether the basis of the proceeding is alleged action in an official capacity as a director, officer, employee, or agent or in any other capacity while serving as a director or officer, shall be indemnified and held harmless by the Association to the fullest extent authorized by the Michigan Nonprofit Corporation Act (the "Act"), as it exists or may be amended (but, in the case of any such amendment, only to the extent that the amendment permits the Association to provide broader indemnification rights than the Act permitted the Association to provide before the amendment), against all expenses, liability, and loss (including attorney fees, judgments, fines, ERISA excise taxes, or penalties and amounts to be paid in settlement) reasonably incurred by the person in connection therewith, and the indemnification shall continue for a person who has ceased

to be a director or officer and shall inure to the benefit of his or her heirs, executors, and administrators; provided, however, that except as provided otherwise in these bylaws with respect to proceedings seeking to enforce rights to indemnification, the Association shall indemnify any such person seeking indemnification in connection with a proceeding, or part thereof, initiated by the person only if the proceeding, or part thereof, was authorized by the Board of Directors. To the extent authorized by the Act, the Association may, but shall not be required to, pay expenses incurred in defending a proceeding in advance of its final disposition, except that the advancement of expenses shall be mandatory if a provision in the articles of incorporation, these bylaws, a resolution of the board or the members, or an agreement make indemnification mandatory unless the provision specifically provides otherwise. The right to indemnification conferred in this article shall be a contract right.

10.3 Nonexclusivity of Rights. The right to indemnification conferred in this article shall not be exclusive of any other right that any person may have or acquire under any statute, provision of the articles of incorporation, bylaw, agreement, vote of membership or disinterested directors, or otherwise.

10.4 Indemnification of Employees and Agents. The Association may, to the extent authorized from time to time by the board of directors, grant rights to indemnification and to payment by the Association, for expenses incurred in defending any proceeding before its final disposition, to any employee or agent of the Association to the fullest extent of the provisions of this article with respect to the indemnification and advancement of expenses of directors and officers of the Association.

10.5 Impairment. The Association may eliminate or impair a right to indemnification or to advancement of expenses established by this Article by amendment after the occurrence of the act or omission that is the subject of the formal or informal civil, criminal, administrative, or investigative action, suit, or proceeding for which indemnification or advancement of expenses is sought.

10.6 Insurance. The Association may maintain insurance, at its expense, to protect itself and any director, officer, employee, or agent of the Association or of another corporation, partnership, joint venture, trust, or other enterprise against any expense, liability, or loss, whether or not the Association would have the power to indemnify the person against the expenses, liability, or loss under the Act.

10.7 Determination That Indemnification is Proper. Any indemnification under this Article X (unless ordered by a court) shall be made by the Association only as authorized in the specific case. The Association must determine that indemnification of the person is proper in the circumstances because the person has met the applicable standard of conduct set forth herein, whichever is applicable, and such determination shall be made in any of the following ways:

- a. By the majority vote or quorum of the board consisting of directors who were not parties to such action, suit, or proceeding;

b. If the quorum described in subdivision a above is not obtainable, then by a committee of directors who are not parties to the action, which committee shall consist of not less than two disinterested directors;

c. By independent legal counsel in a written opinion; or

d. By the members.

10.8 Proportionate Indemnity. If a person is entitled to indemnification under this Article for a portion of expenses, including attorney fees, judgements, penalties, fines and amounts paid in settlement, but not for the total amount, the Association shall indemnify the person for the portion of the expenses, judgements, penalties, fines, or amounts paid in settlement for which the person is entitled to be indemnified.

10.9 Expense Advance. Expenses incurred in defending a civil or criminal action, suit or proceeding described in this Article may be paid by the Association in advance of the final disposition of the action, suit, or proceeding on receipt of an undertaking by or on behalf of the person involved to repay the expenses, if it is ultimately determined that the person is not entitled to be indemnified. The undertaking shall be an unlimited general obligation of the person on whose behalf advances are made but need not be secured.

10.10 Former Directors and Officers. The indemnification provided in this article continues for a person who has ceased to be a director or officer and shall inure to the benefit of the heirs, executors, and administrators of that person.

10.11 Changes in Michigan Law. If there are any changes in the Michigan statutory provisions applicable to the Association and relating to the subject matter of this Article, then the indemnification to which any person shall be entitled shall be determined by such changed provisions, but only to the extent that any such change permits the Association to provide broader indemnification rights that such provisions permitted the Association to provide before any such change.

ARTICLE XI – AMENDMENT

11.1 Amendment. These bylaws may be adopted, amended, altered, or repealed, in whole or in part, by the members or by the Board of Directors, through a majority vote, at any duly held meeting of the Association to the extent not in conflict with the articles of incorporation, the Act, or other applicable law. Notice of a membership meeting at which an amendment to these bylaws is to be acted upon shall include notice of the proposed adoption, amendment, alteration, or repeal, and such notice shall have been communicated by the Secretary to each member not less than 10 days or more than 60 days prior to such membership meeting.

ARTICLE XII – GENERAL PROVISIONS

12.1 Electronic Signatures. Wherever a written instrument is required to be executed hereunder, an electronic signature, to the extent permitted by applicable law, shall be deemed to be a written signature; except that electronic signatures shall not be deemed to be a written signature for purposes of financial transactions.

12.2 Books and Records. The Association shall keep at the office of the Association correct and complete books and records of the activities and transactions of the Association, including the minute book, which shall contain a copy of the Certificate of Incorporation, a copy of these by-laws, all resolutions of the Board, and all minutes of meetings of the Members and meetings of the Board and committees thereof.

12.3 Contracts and Instruments. The Executive Committee may authorize any officer or agent of the Association to enter into any contract, to execute and deliver any instrument, or to sign checks, drafts, or other orders for the payment of money, notes or other evidences of indebtedness in the name of and on behalf of the Association. Such authority may be general or may be confined to specific instances. No instrument required to be signed by more than one officer may be signed by one person in more than one capacity.

12.4 Deposits. The funds of the Association shall be deposited in its name with such banks, trust companies, or other depositories as the Board, or officers to whom such power has been delegated by the Board, may from time to time designate.

CERTIFICATION

I, Laura Alexiou, Secretary of the Otsego Lake Association, a Michigan nonprofit corporation, hereby certify that these Third Amended and Restated Bylaws were duly adopted by the Board of Directors of the Association on August ____, 2021.

Dated: August ____, 2021

Laura Alexiou
Secretary