

**BYLAWS  
OF  
GLENWOOD SPRINGS ARTS COUNCIL**

**ARTICLE I  
NAME**

The name of the corporation is the GLENWOOD SPRINGS ARTS COUNCIL (the “Arts Council”).

**ARTICLE II  
PURPOSE OF ARTS COUNCIL**

The purposes and objectives of the Arts Council shall be to develop the human, artistic and cultural potential of the Glenwood Springs community and surrounding areas as well as any other lawful purpose consistent therewith. The Arts Council may promote or sponsor cooperative planning research, fund raising and public education programs, administer property, and undertake such other services and programs as such are deemed necessary or appropriate by the Arts Council to encourage participation and appreciation of the arts by all citizens in the area.

**ARTICLE III  
OFFICES**

3.01. Principal and Business Offices. The principal office of the Arts Council, required by the Colorado Statutes to be maintained in the State of Colorado, may but need not be identical with the registered office of the Arts Council, and the address of the Arts Council’s principal office may be changed from time to time by the Board. The business office of the Arts Council may but need not be identical to such principal office and may be changed as the Board may designate or as the business of the Arts Council may require from time to time.

3.02 Office of the Registered Agent. The office of the registered agent of the Arts Council, required by the Colorado Statutes to be maintained in the State of Colorado, may but need not be identical with the principal office of the Arts Council in the State of Colorado, and the address of the office of the registered agent may be changed from time to time by the Board or by the registered agent.

**ARTICLE IV  
MEMBERS**

4.01 Membership. The Arts Council shall have members. Membership shall be open to individuals, groups, or business entities interested in furthering the purposes of the Arts Council.

4.02 Dues. Annual membership dues shall be determined and assessed by the Board. Any member who is delinquent in that members dues shall not be entitled to rights and privileges of membership until the dues are paid unless dues are waived for that member by the Board for good cause.

4.03 Voting Rights. Voting rights shall be extended to all members who are current with their dues as of the date notice of the annual or special meeting of the members is given for the meeting at which the vote is to taken. Each membership category (individual, family, business etc) shall be entitled to one vote. Members may vote by absentee ballot and/or electronically on all matters listed on the Notice of Meeting or on all matters for which a vote is taken at a meeting by written proxy signed by the member unless the written proxy limits the authority of person voting which proxy must be delivered to the Secretary of the Arts Council at or before the commencement of the meeting for which the written proxy is given.

4.04 Annual Meetings. The annual meeting of the Arts Council membership shall be held during the month of January each year upon notice to the members who are current with their dues as of December 31<sup>st</sup> of the previous calendar year. The business to be conducted shall include

- A. the election of persons to serve on the Board for those Board members who terms are expiring and to fill the remaining terms for Board members for the balance of the term of that Board member where vacancies occurred since the last annual meeting
- B. Receiving and discussion of Treasurer's report of finances for the preceding calendar year
- C. Transacting such other business that is an the Agenda for the Annual Meeting sent with the Notice of the Meeting and such other business as individual members request be discussed at the Annual Meeting.

4.05 Special Meetings. Special meetings of the members may be called by the President, by a majority of the members of the Board, or by any four current members of the Arts Council upon written request to the President at least two weeks prior to the call of the meeting. Whoever calls a special meeting shall be responsible for providing notice of the special meeting to all members of the Arts Council as provided in section 4.06.

4.06 Notice of Meetings. A written notice of each annual or special meeting of the membership of the Arts Council shall state the place, day and hour of the meeting, shall be prepared and published by the Secretary or by the person authorized to call the meeting as provided in section 4.05 above. This notice shall state the purpose of the meeting. Additional matters not contained in the Notice may be discussed at such meeting upon a majority vote of the members attending the meeting who are entitled to vote at that meeting in person or by written

proxy as provided in these Bylaws. may be given by written notice delivered personally or by mail, facsimile or e-mail to each Board member at his/her address as such Board member shall have designated in writing filed with the Secretary of the Board. Notice may be given by personal service, facsimile or e-mail as designated in the members application for membership. In the case of personal delivery, facsimile or e-mail, Notice shall be given not less than seven (7) days prior to the time of the meeting. If mailed by regular first class mail, postage prepaid, such notice shall be mailed at least fourteen (4) calendar days prior to the meeting.

4.07 Quorum. Three percent of the total members of the Arts Council eligible to vote at a meeting shall constitute a quorum for that meeting including those votes represented by absentee ballot or proxy for that meeting.

## **ARTICLE V** **BOARD OF DIRECTORS**

5.01 General Powers and Number. The business and affairs of the Arts Council shall be managed by its Board of Directors (Board). The number of the Board members shall be seven (7). The Board may enlarge or to reduce the number of Board members on the Board by amending these Bylaws as provided below. Each Board member shall serve until his or her successor is duly appointed, elected and qualified or until his or her death, resignation or removal. The Board shall have the powers, duties and obligations of Board members of a Colorado non-profit business corporation and shall manage the affairs of the Council as provided by the Colorado Non-Profit Act, C.R.S. § 7-121-101, et seq. The Board of Directors may enact from time to time by resolution Rules and Regulations which they deem necessary and proper for the management and government of the Arts Council and to facilitate the orderly conduct of the affairs of the Arts Council affairs consistent with the Art's Council's Articles of Incorporation and these Bylaws. The Board may hire and fire from time to time such staff, including an Executive Director, as the Board in its sole discretion deems advisable for the proper operation of the Arts Council.

5.02 Appointment, Election and Removal. The members of the Arts Council shall elect members of the Board by the majority vote of the members entitled to vote at the membership's annual meeting. Any person elected as a Board member shall serve until his or her term ends or his/her death, resignation or removal, or until a successor has been appointed or elected as set forth in these Bylaws. A Board member may resign at any time by filing his or her written resignation with the President of the Board or, if the resignation is by the President, then the written resignation shall be filed with the Vice-President. A Board member may be removed by a vote of at least two thirds of the then existing members of the Board at a regular or special meeting of the Board called for the specific purpose of discussion and voting on the removal of a Board member. Removal may be for good cause as determined by the Board in its sole discretion at the time the vote for removal is taken. If a vacancy exists in a Board member's position between the Annual Meetings of the membership of the Arts Council, the Board may appoint, by a majority vote of the Board members in attendance at the meeting called for that purpose, a

person to fill that vacancy until the next Annual Meeting the membership of the membership. Any election of a Board member at an Annual Meeting of the membership caused by vacancy shall be for the remaining term of that Board Member.

5.03 Tenure and Qualifications. All Board members, except those to fill a vacancy occurring between Annual Meetings, shall be elected by the membership of the Arts Council at its annual meeting for a term of three years from the date that Board member is elected and until the Annual Meeting of the membership three years later unless the vote is to fill a vacancy in which event the term shall extend until the end of the term of Board member for which the vacancy exists as provided in 5.02 above. The terms of the Board Members shall be staggered so that one third of the Board members are elected at each Annual Meeting of the membership of the Arts Council. Board members may served up to four consecutive terms of office but no more. The Board may, from time to time, prescribe such qualifications for membership on the Board as the Board deems appropriate; however, each Board member shall be a natural person and must be currently qualified voting member (individual or family) of the Arts Council. Any business member may select a natural person who is an owner or manger of the business who may serve, if elected or appointed, on the Board.

5.04 Annual Meetings. The Annual Meeting of the Board shall be held each year immediately following the Annual Meeting of the membership of the Arts Council at the same place as designated in the Notice of the Annual Meeting of the membership. Officers, as listed below, of the Board shall be elected at each Annual Meeting to serve for until the next annual meeting of the Board.

5.05 Regular Meetings. The Board may provide from time to time, by resolution, for the time and place for the holding of regular meetings of the Board. It is the intent of this Section that the Board will adopt a regular meeting schedule for the upcoming year at each Annual Meeting of the Board. These regular meetings may be changed from time by time by written notice to the Board by the President and/or Secretary of the Board.

5.06 Special Meetings. Special meetings of the Board may be called by or at the request of the President or any three Board members.

5.07 Notice; Waiver. Notice of regular and special meetings of the Board may be given by written notice delivered personally or by mail, facsimile or e-mail to each Board member at his/her address as such Board member shall have designated in writing filed with the Secretary of the Board. Notice in the case of personal delivery, facsimile or e-mail, shall be given not less than seventy-two (72) hours prior to the time of the meeting. If mailed by regular first class mail, postage prepaid, such notice shall be mailed at least four (4) calendar days prior to the meeting. Notwithstanding the above, notice of any meeting at which the Bylaws are to be amended shall be in writing and delivered, by mailing or by electronic means, at least fourteen (14) calendar days prior to the meeting. When any notice is required to be given to any Board member of the Arts Council under the Articles of Incorporation Council or Bylaws or any provision of law, a waiver

thereof in writing, signed at any time, whether before or after the time of meeting, by the Board member entitled to such notice, shall be deemed equivalent to the giving of such notice. The attendance of a Board member at a meeting shall constitute a waiver of notice of such meeting, except where a Board member attends a meeting for the purpose of objecting to the transaction of any business because the meeting is not lawfully called or convened. The business to be transacted at any special meeting of the Board shall be specified in the notice or waiver of notice of such meeting. No notice need be given for regular meetings of the Board when the time and place of such regular meeting has been fixed by a duly adopted resolution of the Board.

5.08 Quorum. Except as otherwise provided by law, by the Articles of Incorporation or by these Bylaws, one third of the Board members then in office shall constitute a quorum for the transaction of business at any meeting of the Board.

5.09 Manner of Acting. The act of the majority of the Board members present at a meeting at which a quorum is present shall be the act of the Board, unless the act of a greater number is required by law or by the Articles of Incorporation or these Bylaws. Board members may vote by written proxies delivered to a meeting of the Board. Proxies shall only be valid for the meeting noted in the proxy.

5.10 Conduct of Meetings. The President, or in the President's absence, the Vice President, or in the absence of both any Board member chosen by the Board members present, shall call meetings of the Board to order and shall act as the presiding officer of such meetings. In the absence of the secretary, the presiding officer may appoint any Board Member or other person to act as secretary of the meeting.

5.11 Vacancies. Any vacancy occurring on the Board may be filled by the Board until the next succeeding annual election.

5.12 Compensation. No compensation shall be paid to any Board member for serving as a member of the Board, except that a Board member may be reimbursed for expenses actually incurred by such Board member in carrying out any activity of this Arts Council which is within the scope of its purposes.

5.13 Presumption of Assent. A Board member of the Arts Council who is present at a meeting of the Board or a committee thereof which he or she is a member at which action on any corporate matter is taken shall be presumed to have assented to the action taken unless his or her dissent shall be entered in the minutes of the meeting or unless he or she shall file his or her written dissent to action with the person acting as the secretary of the meeting before the adjournment thereof or shall forward such dissent by certified mail to the Secretary of the Arts Council immediately after the adjournment of the meeting. Such a right dissent shall not apply to a Board member who voted in favor of such action.

5.14 Committees. The Board, by resolution adopted by a majority of Board members then in office, may establish such committees as it shall deem necessary and desirable to enable the Arts Council to carry out its purposes. Each committee shall consist of such Board members and individuals named by the Board with such duties assigned to the committee.

5.15 Unanimous Consent Without Meeting. Any action required or permitted by the Articles of Incorporation or Bylaws or any provision of law to be taken by the Board at a meeting or by resolution may be taken without a meeting if a consent in writing setting forth the actions so taken, shall be signed by all the Board members then in office. Such consent may be signed in counterparts and by facsimile and by email.

5.16 Electronic Meetings. Any action required or permitted by the Articles of Incorporation Council or Bylaws or any provision of law to be taken by the Board or a committee of the Board at a meeting or by resolution may be taken in a meeting through the use of any means of communicating by which (a) all participating Board members may simultaneously hear each other during the meeting, or (b) all communication during the meeting is immediately transmitted to each participating Board member and each participating Board member is able to immediately send messages to all other participating Board members. These include, but are not limited to, speaker phones, Skype or other similar means of electronic communications.

5.17 Conflict of Interest. Members of the Board shall not conduct private business in any manner which places them at a special advantage because of their association with the Arts Council. In providing advisement to the Arts Council involving transactions of a nature which may be related to the special knowledge or profession of a member, the quality and cost services shall be managed in an objective and customarily competitive manner. In case of a clear conflict of interest, the Board member shall not be allowed to vote. The decision of a majority of the Board members present at the meeting shall control as to whether or not there is a clear conflict of interest. The Board may also adopt, by resolution, a more detailed conflict of interest policy.

5.18 Attendance at Meetings. Directors are expected to attend all regular board meetings and all assigned committee meetings and or executive sessions as applicable to them. A Board Member may be removed from the Board of Directors if they violate this attendance policy. Missing three consecutive regular Board meetings in a calendar year and/or missing five total regular Board meetings in a calendar year will constitute a direct violation of above stated attendance policy, and warrant removal from the Board. In addition, missing three consecutive Committee meetings in a calendar year or missing three committee meetings in a calendar year will constitute a direct violation of above stated attendance policy, and warrant removal from the Board. All directors are required to attend all applicable major events, fundraisers, exhibit openings, and the annual meeting (referred to below as special events). If a Board Member is unable to attend one of the special events listed above, they must submit in writing the reason, at the regular board meeting preceding the special event they will be missing. Directors who miss three consecutive special events in a calendar year or five total special events in a calendar year will constitute a direct violation of above stated attendance policy, and warrant removal from the

Board. A list of all required special events will be given to all directors when the annual calendar and budget are approved each year. Amendments to this calendar are allowed, and will be presented in the upcoming events portion of meeting agendas for the Board.

## **ARTICLE VI** **OFFICERS**

6.01 Number and Qualifications. The officers of the Arts Council shall be the President, Vice President, Secretary, Treasurer, and such other officers as determined necessary by the Board from time to time. Officers shall be elected from the Board members and by the Board members in office at the time of the election. No two offices may be held by a single Board member.

6.02 Election and Term of Office. Except as otherwise provided herein, the officers of the Arts Council shall be elected by the members of the Arts Council at its annual. Each officer shall hold office for a term of one year and until a successor shall have been duly elected and qualified or until his/her death, resignation or removal. No person shall be allowed to serve more than four consecutive terms in any one office position.

6.03 Removal. Any officer may be removed by the majority vote of the Board whenever in the Board's sole judgment the best interests of the Arts Council will be served thereby.

6.04 Vacancies. A vacancy in any office because of death, resignation, removal or otherwise, shall be filled by the Board for the unexpired portion of the term.

6.05 President. The President shall preside at all meetings of the Board and shall have such authority as may be provided elsewhere in these Bylaws. The President shall serve as the local representative to the Colorado Council of Arts & Humanities. The President shall be ex officio member of all committees. The President shall also have authority, subject to these Bylaws, to sign, execute and acknowledge on behalf of the Arts Council all deeds, mortgages, bonds, contracts, leases, reports and all other documents or instruments necessary or proper to be executed in the course of the Arts Council's regular business or which shall be authorized by resolution of the Board. The President may authorize the Vice President or other officer or agent of the Arts Council to sign, execute and acknowledge such documents or instruments in the President's stead. The President shall be the principal executive officer of the Arts Council and shall, subject to such rules as may be prescribed by the Board. The President shall have the power, with the written agreement (which can be by facsimile and/or email) of three other Board members, to act in case of emergency between meetings of the Council. The President may not incur debt without Board approval at a regular or special meeting of the Board. All actions taken between meetings shall be reviewed by the Board at its next meeting.

6.06 Vice President. In the absence of the President, or in the event of the President's death or inability to act, the Vice President shall perform the duties of the President. When so acting, the Vice President shall have all the powers of and be subject to all the restrictions upon the President. The Vice President shall perform such other duties and have such authority as may be assigned to him or her by the President or the Board.

6.07 Secretary. The Secretary shall (a) keep the minutes of the meetings of the Board in one or more books provided for that purpose; (b) see that all notices are duly given in accordance with the provisions of these Bylaws or as required by law; (c) be custodian of the corporate records; (d) keep or arrange for the keeping of a register of the mailing and e-mail address of each Board member; and (e) in general, perform all duties incident to the office of the Secretary and have such other duties and exercise such authority as from time to time may be delegated or assigned to him or her by the President or the Board.

6.08 Treasurer. The Treasurer shall in general perform all duties incident to the office of the Treasurer, including management of the books and financial records of the Arts Council, and have such other duties and exercise such other authority as from time to time may be delegated or assigned to him or her by the President or the Board. The Treasurer shall present financial reports to the Board at each regular meeting of the Board. The Treasurer shall also prepare a comprehensive annual report for presentation to the membership at each Annual Meeting. The annual report shall be reviewed and approved by the Board prior to presentation at the Annual Meeting of the membership of the Arts Council. All financial reports, both regular and annual, shall itemize the income and expenditures since the last regular or annual report. The Treasurer is responsible for presenting the annual financial report to the membership of the Arts Council at its Annual Meeting.

6.09 Assistants and Acting Offices. The Board shall have the power to appoint any person to act as an assistant to any officer, or as agent for the Arts Council, or to perform the duties of such officer whenever for any reason it is impracticable for such officer to act personally, and such assistant or acting officer or other agent so appointed by the Board shall have the power to perform all the duties of the office to which he or she is so appointed to be assistant, or as to which he or she is so appointed to act, except as such power may be otherwise defined or restricted by the Board. Such assistants need not be members of the Board and may be paid staff members of the Arts Council.

## **ARTICLE VII COMMITTEES**

7.01 Committee. The President or the Board may appoint and abolish any regular or special committees of the Board, as he or she deems appropriate in order to carry out the activities of the Arts Council. Such committee members shall hold their position until the next Annual Meeting of the Board. The President or the Board can remove any Board member from a committee or disband a committee at any time in the sole discretion of the President or the Board.



7.02. Executive Committee. The President shall appoint three additional Board members whom along with the President shall form the Executive Committee of the Board. The Executive Committee shall oversee and handle the daily operations, concerns and business functions of the Arts Council. The members of the Executive Committee shall serve until the next Annual Meeting of the Board. No member of the Executive Committee shall serve more than three consecutive terms on the Executive Committee. The President may remove any Executive Committee member in the sole discretion of the President.

**ARTICLE VIII**  
**CONTRACTS; LOANS; CHECKS AND DEPOSITS;**  
**SPECIAL CORPORATE ACTS**

8.01 Contracts. The Board may authorize any officer or officers, agent or agents to enter into any contract or execute or deliver any instrument in the name of and on behalf of the Arts Council, and such authorization may be general or confined to specific instances. No contract or other transaction between the Arts Council and one or more of its Board Members or any other corporation, firm, association, or entity in which one or more of its Board Members or any other corporation, firm association, or entity in which one or more of its Board Members or officers are financially interested, shall be either void or voidable because of such relationship of interest or because such Board Member or Board Members are present at the meeting of the Board or a committee thereof which authorized, approves or ratifies such contract or transaction, if (1) the fact of such relationship or interest is disclosed or known to the Board or committee which authorizes, approves or ratifies the contract or transaction by a vote or consent sufficient for the purpose without counting the votes or consents of such interested Board Members; or (2) the fact of such relationship or interest is disclosed or known to the Board Members entitled to vote and they authorize, approve or ratify such contract or transaction by vote or written consent; or (3) the contract or transaction is fair and reasonable to the Arts Council. Common or interested Board Members may be counted in determining the presence of a quorum at a meeting of the Board or a committee thereof which authorized, approves or ratifies such contract or transactions, but such interested Board Members shall abstain from any vote to authorize, approve, or ratify such contract or transaction.

8.02 Loans. No indebtedness for borrowed money shall be contracted on behalf of the Arts Council and no evidence of such indebtedness shall be issued in its name unless authorized by or under the authority of a resolution of the Board. Such authorization may be general or confined to specific instances.

8.03 Checks, Drafts, Etc. All checks, drafts or other orders for the payment of money, notes or other evidence of indebtedness issued in the name of the Arts Council, shall be signed by the President, Treasurer and/or Executive Director as authorized by resolution of the Board from time to time.

8.04 Deposits. All funds of the Arts Council not otherwise employed shall be deposited from time to time to the credit of the Arts Council in such banks, trust companies or other depositories as may be selected by or under the authority of a resolution of the Board.

8.05 Income. The income of the Arts Council shall include membership dues, gifts, bequests, donations, activities and programs sponsored by the Arts Council which generate such revenue, or the rent of any facilities owned, leased or otherwise operated by the Arts Council. Any solicitation of funds on behalf of the Arts Council may be undertaken only upon the prior approval of the Board and shall be compatible with the purposes and policies expressed within these Bylaws and the Articles of Incorporation.

## **ARTICLE IX BOOKS AND RECORDS**

The Arts Council shall keep accurate and complete books and records of its activities and finances which records shall be kept at the Arts Council's principal place of business. This shall include a record of the names and contact information for all Arts Council members. Except for confidential personal and personnel information and/or other confidential information, the books and records of the Arts Council may be inspected by any qualified voting member of the Arts Council for any proper purpose upon prior written request submitted to the Executive Director or an Officer of the Council. The Board from time to time may provide rules for providing such records to a member including payment of costs associated with producing and/or copying of such records if such copying is allowed.

## **ARTICLE X STAFF**

10.01 Executive Director. The Board may hire, or cause to be hired, an executive Director for the Arts Council. The Board shall adopt a job description for the Executive Director which shall form the basis for the hiring of the Executive Director. The Executive Director shall serve at the pleasure of the Board and may be terminated at any time with or without cause in the sole and absolute discretion of the Board. The Executive Director shall perform such duties as assigned to him or her by the Board.

10.02 Other Employee(s). The Board shall approve additional staff as deemed desirable from time to time including but not limited to administrative staff, instructors, and other persons which the Board in its sole discretion deems appropriate to facilitate the operation of the day to day business and operations of the Arts Council. The Executive Director shall be solely responsible for hiring and firing such other employees and all such employees shall be considered to be at will employees and may be terminated with or without cause in the sole discretion of the Executive Director.

10.03 Salary and benefits. An annual salary and/or other pay schedule and/or benefits, if any, for all employee(s) shall be determined by the Board from time to time.

## **ARTICLE XI** **AMENDMENTS**

The Board, upon written notice to the Board members, may alter, amend or repeal these Bylaws and/or enact new or revised Bylaws upon a majority vote of the Board at any annual, regular or special meeting of the Board called for that purpose.

## **ARTICLE XII** **DISSOLUTION**

The Arts Council may be dissolved upon a majority vote of the Board at a regular, special or annual meeting of the Board called for that purpose and upon written notice to the Board members. Upon dissolution of the Arts Council, the Board shall, after paying or making provisions for the payment of all the liabilities of the Arts Council, dispense of all the remaining assets of the Arts Council as set forth in the Articles of Incorporation. Such disposition of the remaining assets of the Art Council, as the Board in its sole discretion may determine, shall only be made to qualified organizations which are organized and operated exclusively for charitable, educational, religious or scientific purposes and which organizations shall at the time of disposition qualify as an exempt organization or organizations under Section 501(c)(3) of the Internal Revenue Code of 1986 (or the corresponding provision of any future United States Internal Revenue law).

## **ARTICLE XIII** **INDEMNIFICATION**

13.01 Indemnification for Successful Defense. Within 20 days after receipt of a written request pursuant to Section 13.03 of these Bylaws, the Arts Council shall indemnify a Board Member or officer, to the extent he or she has been successful on the merits or otherwise in the defense proceeding, for all reasonable expenses incurred in the proceeding, if the Board Member or officer was a party because he or she is a Board Member or officer of the Arts Council. The Board may, but shall not be obligated to do so, advance such expenses to the Board Member or for the benefit of the Board Member.

### 13.02 Other Indemnification.

A. In cases not included under Section 13.01 of these Bylaws, the Arts Council shall indemnify, or may advance expenses of, a Board Member or officer against all liabilities and expenses incurred by the Board Members or officer in a proceeding to which the Board Member or officer was a party because he or she is a Board Member or officer of the Arts Council, unless liability was incurred because the Board Member or officer breached or failed to perform a duty

he or she owes to the Arts Council and the breach or failure to perform constitutes any of the following:

1. A willful failure to deal fairly with the Arts Council in connection with a matter in which the Board Member or officer has a material conflict of interest.
2. A violation of criminal law, unless the Board Member or officer had reasonable cause to believe his or her conduct was lawful or not reasonable cause to believe his or her conduct was unlawful.
3. A transaction from which the Board Member or officer derived an improper personal profit.
4. Willful misconduct.

B. Determination of whether indemnification or advance payment of expenses is required of the Arts Council under this Section shall be made pursuant to Section 13.05 of these Bylaws.

C. The termination of a proceeding by judgment, order, settlement or conviction, or upon a plea of no contest or an equivalent plea, does not, by itself, create a presumption that indemnification of the Board Member or officer is not required under this Article.

13.03 Written Request. A Board Member or officer who seeks indemnification or advance payment or expenses under Sections 13.01 or 13.02 shall make a written request to the Board.

13.04 Nonduplication. The Arts Council shall not indemnify, or advance expenses to, a Board Member or officer under Section 13.01 or 13.02 if the Board Member or officer has previously received indemnification or allowance or payment of expenses from any person, including the Arts Council, in connection with the same proceeding. However, the Board Member or officer has no duty to look to any other person for indemnification.

13.05 Determination of Right to Indemnification.

A. Unless otherwise provided by the Articles of Incorporation, or by written agreement between the Board Member or an officer and the Arts Council, the Board Member or officer seeking indemnification, or advanced payment of expenses, under Section 13.02 shall select one of the following means for determining his or her right to indemnification and/or advanced payment of expenses:

1. By a majority vote of a quorum of the Board consisting of Board Members not at the time parties to the same or related proceedings. If a quorum of disinterested

Board Members cannot be obtained, by a majority vote of a committee duly appointed by the Board and consisting solely of two or more Board Members not at the time parties to the same or related proceedings. Board Members who are parties to the same or related proceedings may participate in the designation of members of the committee.

2. By independent legal counsel selected by a quorum of the Board or its committee in the manner prescribed in subparagraph (1) or, if unable to obtain such a quorum or committee, by a majority vote of the full Board, including Board Members who are parties to the same or related proceedings.
3. By a panel of three arbitrators consisting of one arbitrator selected by those Board Members entitled under subparagraph (2) to select independent legal counsel, one arbitrator selected by the Board Member or officer seeking indemnification and one arbitrator selected by the two arbitrators previously selected.
4. By a court under Section 13.09.
5. By any other method provided for in any additional right to indemnification permitted under Section 13.08.

B. In any determination under subsection (A), the burden of proof is on the Arts Council to prove by clear and convincing evidence that indemnification under Section 13.02 should not be allowed.

C. A written determination as to the Board Member's or officer's right to indemnification under Section 13.02 shall be submitted to both the Arts Council and the Board Member or officer within 60 days of the selection made under subsection (A).

D. If it is determined that indemnification is required under Section 13.02, the Arts Council shall pay all liabilities and expenses not prohibited by Section 13.04 within 10 days after receipt of the written determination under subsection ©. The Arts Council shall also pay all expenses incurred by the Board Member or officer in the determination process under subsection (A).

13.06 Advance Expenses. Within 14 days after receipt of a written request by a Board Member or officer who is a party to a proceeding, the Arts Council shall pay or reimburse his or her reasonable expenses as incurred if the Board Member or officer provides the Arts Council with all the following:

A. A written affirmation of his or her good faith belief that he or she has not breached or failed to perform his or her duties to the Arts Council.

B. A written undertaking, executed personally or on his or her behalf, to repay the allowance to the extent that it is ultimately determined under Section 13.05 that indemnification under Section 13.02 is not required and that indemnification is not ordered by a court under Section 9.09(B)(2). The undertaking under this subsection shall be an unlimited general obligation of the Board Member or officer and may be accepted without reference to his or her ability to repay the allowance. The undertaking may be secured or unsecured.

13.07 Indemnification Under Colorado Statutes. To the extent indemnification is extended under this Article XIII to any Board Member, officer or employee otherwise entitled to indemnification under Colorado law, the indemnification provisions hereunder shall be secondary and subordinate to such state indemnification and shall be administered in such a way as to avoid overlapping or duplication of the costs of defense or payment of judgments.

13.08 Nonexclusivity.

A. Except as provided in subsection (B), Sections 13.01, 13.02 and 13.06 do not preclude any additional right to indemnification or allowance of expenses that a Board Member or officer may have under any of the following:

1. The Articles of Incorporation.
2. A written agreement between the Board Member or officer and the Arts Council.
3. A resolution of the Board.

B. Regardless of the existence of an additional right under subsection (A), the Arts Council shall not indemnify a Board Member or officer, or permit a Board Member or officer to retain any allowance of expenses unless it is determined by or on behalf of the Arts Council that the Board Member or officer did not breach or fail to perform a duty he or she owes to the Arts Council which constitutes conduct under Section 13.02(A). A Board Member or officer who is a party to the same or related proceedings for which indemnification or an allowance of expenses is sought may not participate in a determination under this subsection.

C. Sections 13.01 to 13.12 do not affect the Arts Council's power to pay or reimburse expenses incurred by a Board Member or officer in any of the following circumstances:

1. As a witness in a proceeding to which he or she is not a party.
2. As a plaintiff or petitioner in a proceeding because he or she is or was an employee, agent, Board Member or officer of the Arts Council.

13.09 Court-Ordered Indemnification.

A. Except as provided otherwise by a written agreement between the Board Member or officer and the Arts Council, a Board Member or officer who is a party to a proceeding may apply for indemnification to the court conducting the proceeding or to another court of competent jurisdiction. Application may be made for an initial determination by the court under Section 13.05(A)(5) or for review by the court of an adverse determination under Sections 13.05(A)(1), (2), (3) or (5). After receipt of an application, the court shall give any notice it considers necessary. After receipt of an application, the court shall give any notice it considers necessary.

B. The court shall order indemnification if it determines any of the following:

1. That the Board Member or officer is entitled to indemnification under Sections 13.01 or 13.02.
2. That the Board Member or officer is fairly and reasonably entitled to indemnification in view of all the relevant circumstances, regardless of whether indemnification is required under Section 13.02.

C. If the court determines under subsection (B) that the Board Member or officer is entitled to indemnification, the Arts Council shall pay the Board Member's or officer's expenses incurred to obtain the court-ordered indemnification.

13.10 Indemnification of Employees or Agents. The Arts Council may indemnify and allow reasonable expenses of an employee or agent who is not a Board Member or officer to the extent provided by the Articles of Incorporation or Bylaws, by general or specific action of the Board or by contract.

13.11 Insurance. The Arts Council may purchase and maintain insurance on behalf of an individual who is an employee, agent, Board Member or officer of the Arts Council against liability asserted against or incurred by the individual in his or her capacity as an employee, agent, Board Member or officers, regardless of whether the Arts Council is required or authorized to indemnify or allow expenses to the individual against the same liability under Sections 13.01, 13.02, 13.08 and 13.09.

13.12 Liberal Construction. In order for the Arts Council to obtain and retain qualified Board Members and officers, the foregoing provisions shall be liberally administered in order to afford maximum indemnification of Board Members and officers and, accordingly, the indemnification above provided for shall be granted in all cases unless to do so would clearly contravene applicable law, controlling precedent or public policy.

**ARTICLE XIV  
FISCAL YEAR**

The fiscal year of the Arts Council shall be the calendar year.

**ARTICLE XV  
NON PROFIT STATUS**

No part of the net earnings of the Arts Council shall be distributable to its Board Members, officers, or other private persons except that the Arts Council shall be authorized and empowered to pay reasonable compensation for services rendered and to make payments and distributions in furtherance of the purposes of the Arts Council as set forth in these Bylaws and in the Articles of Incorporation. Notwithstanding any other provision of these Bylaws, the Arts Council shall not carry on any other activities not permitted to be carried on by a Arts Council exempt from Federal income tax under Section 501(c)(3) of the Internal Revenue Code of 1954, as amended. Notwithstanding any other provision of these Bylaws or the Articles of Incorporation, the Arts Council shall not engage in any activities that are not in furtherance of the purposes of the Arts Council.

**ARTICLE XVI  
POLICY OF NON DISCRIMINATION**

The Arts Council does not and shall not discriminate on the basis of gender, race, religious preference, color, national and ethnic origin in the administration of its policies and programs nor in its provision of services to its members or the public at large.

Adopted by the Board of Directions this \_\_\_\_\_ day of December, 2015

GLENWOOD SPRINGS ARTS COUNCIL

\_\_\_\_\_  
Secretary