

**BYLAWS
OF
YAMPA RIVER BOTANIC PARK ASSOCIATION**

(As Amended on June 1, 2010)

**ARTICLE I
STATEMENT OF ORGANIZATION**

The City of Steamboat Springs, by its Resolution No. 94-24 (“Resolution”), and by its Ordinance No 1705 (“Ordinance”) did create and ratify the Yampa River Botanic Park Association (the Association) as “an unincorporated, non-profit horticultural organization.....”, “.....to assist the City of Steamboat Springs in managing and operating the Yampa River Botanic Park”. The Park is in the N ½ of the NE ¼ of Section 20, T6N, R84W of the 6th PM and consists of approximately 6 acres which have been dedicated by the City for a botanic park to be known as the Yampa River Botanic Park.

The Resolution and the Ordinance provide that:

1. The Association “shall be a public organization open to all”.
2. It “will solicit the public for donations and volunteer efforts”.
3. It “will be governed by a Board of Directors of up to 21 members”.
4. “One of the Directors will be the City’s Director of Parks and Recreational Services”.
5. Other Board members “will be elected by the members of the Association”.
6. “The Association may have such officers and other representatives as its Board of Directors may determine.”
7. “The Association’s Board of Directors will have ultimate authority regarding design and operation of the Botanic Park”, unless the Association fails to maintain the Park adequately and in accordance with the mission statement.
8. “The activities of the Association will be coordinated and implemented through the Steamboat Springs Department of Parks and Recreation”.
9. “The City will establish separate revenue accounts into which will be deposited Botanic Park revenues....”, and expense accounts, “... will be controlled by the Association’s Board of Directors, and expenditures will be payable through the City’s Finance Department”.
10. “The Board of Directors is authorized to adopt by-laws, establish a schedule of meetings and take such other actions it deems appropriate for the organization and governance” of the Yampa River Botanic Park Association.

A copy of the Ordinance is attached to these Bylaws to inform future Boards.

**ARTICLE II
MISSION STATEMENT**

The Mission of the Association is to create and maintain a place of serenity, celebrating the trees, shrubs, plants and birds of the Yampa River Basin on the 6 acres dedicated to the Park. This statement of Mission is not intended to exclude the growing of non-native

plants in the Park, but to encourage the planting, growing, conservation and study of plants native to northwest Colorado.

ARTICLE III NON-DISCRIMINATION POLICY

The Association's programs, facilities and activities shall be available to all interested persons without regard to race, color, national origin, age, sex or disability. In carrying out its purposes and programs, the Association shall not discriminate on the basis of race, color, national origin, age, sex or disability.

ARTICLE IV MEMBERS, VOLUNTEERS AND GARDEN SPONSORS

- 4.01 **Members.** Membership of the Association shall be open to all. Members are those who have paid the annual membership fee established by the Board of Directors for the current membership year.
- 4.02 **Rights of Members.** Members' names and addresses shall be filed in the membership roster. They will receive occasional informational mailings and a notice of the Annual Meeting. Members are entitled to be present at the Annual Meeting and vote for directors and officers from among qualified candidates.
- 4.03 **Volunteers.** The Association welcomes volunteers because the whole Park is a volunteer effort. Volunteering can take the form of occasional help in the gardens, or participating in a regular group effort at certain planned times: but it can also take the form of sponsoring a garden, working on one of the Committees or helping at events.
- 4.04 **Sponsoring a Garden.** Anyone may sponsor a garden, subject to availability of garden space, approval of the design for the garden and subject to subsequent regular care or regular funding of the garden.

ARTICLE V BOARD OF DIRECTORS

5.01 Number. The business, activities and property of the Association shall be managed, directed and controlled, and the powers of the Association shall be vested in and exercised by a Board of Directors composed of not less than seven, and not more than twenty-one 21 members. The number of Directors shall be determined by the Board of Directors. The City's Director of Parks and Recreation shall be a voting Director.

5.02 Nominations, Qualifications, Elections and Terms of Office.

- (a) **Nominations.** A Nominating Committee, consisting of some or all Directors shall be designated by the Board of Directors, and shall meet at least 60 days before the Annual Meeting. Its purposes shall be to identify and solicit qualified members and Directors, and to nominate the best candidates for the available positions as Directors, Vice-President and President. Members of the Nominating Committee shall not be excluded from being nominated for any position. The nominating committee shall elect a chairperson, not necessarily the President, to run its meetings. Upon the request of any Director, any other Director shall be excluded from the committee while their candidacy is discussed. The committee shall recommend to the Annual Meeting only so many candidates as there are directorship vacancies, and one candidate for each Officer position.
- (b) **Qualifications.** To be eligible for election as a Director, a member must be a member of the Association and must demonstrate a willingness to donate his or her time, advice, skill and energy in support of the Association and its purposes. Officers must be Directors. To be eligible for election as President, a member must have been a Director for at least one year.
- (c) **Elections.** Elections shall be held at the Annual Meeting. Directors and Officers shall be elected from the members nominated, upon the affirmative vote of a simple majority of the Members of the Association then present.
- (d) **Term of Office.** Each Director shall be elected for a term of three years except Directors elected to fill vacancies. There shall be no limit on the number of terms a Director or an Officer may serve if re-elected. All Officers are elected for one year terms. The term of office of any newly-elected Director shall commence immediately upon his election. All Directors shall serve until they resign or until their successors shall have been elected.
- (e) **Overlapping Terms.** At the time of the adoption of these Bylaws, the members of the Board of Directors shall be divided into three approximately equal groups. Directors in the first group shall serve until the first Annual Meeting and election, Directors in the second group shall serve until the second Annual Meeting and election, and Directors in the third group shall serve until the third Annual Meeting and election. At each Annual Meeting and election thereafter, successors to Directors whose terms are expiring or who are retiring, shall be elected.

5.03 Resignations, Constructive Resignations and Vacancies.

- (a) **Resignation.** Any Director may resign at any time by giving written notice to the President or the Secretary of the Association. If a Director is an Officer of the Association, he is also resigning as that Officer, and such resignation shall take effect at the time specified.
- (b) **Constructive Resignation.** A Director shall have constructively resigned as a Director if he has been absent from **two** consecutive Board meetings without prior notice to the Secretary or the President, or if he has been absent from four Board meetings in any twelve month period. His reinstatement requires a

resolution approved by a majority of the Board giving reasons for the reinstatement.

- (c) **Vacancies.** Any vacancy occurring on the Board of Directors by reason of resignation, removal, death, or otherwise may be filled by appointment by the Board to serve until the next annual meeting.

5.04 Compensation of Directors. No compensation shall be paid to Directors for their services as such, but Directors may be reimbursed for actual expenses incurred by them in the performance of their duties if said expenses were approved in advance and subsequently by the President and are claimed in accordance with City procedures. All Directors must be notified in writing before any Director agrees to serve the Association in any capacity other than as Director and to receive compensation therefor.

5.05 Advisors. The Board of Directors may from time to time appoint Advisors, who may be invited to attend and participate in meetings, but who shall not be entitled to vote. The Park Supervisor shall be a permanent Advisor to the Board.

ARTICLE VI MEETINGS

6.01 Annual meeting. All members of the Association shall receive an agenda and a notice inviting them to the Annual Meeting, at least two weeks prior to the meeting. The Annual Meeting of the Association shall be held for the purpose of electing Directors and Officers (see article 5.02(c) above) and for transacting such other business as may come before the meeting. The Annual Meeting shall be held at a time and place specified by the Board of Directors.

6.02 Board Meetings. Meetings of the Board of Directors or any Committee designated by the Board shall be held at such time and place as the Board or said Committee may designate.

6.03 Emergency Meetings. Emergency meetings of the Board of Directors may be called without notice by the President, and shall be called by the President upon the request of two Directors.

6.04 Notice of Meetings. The President shall notify each Director of a regular meeting of the Board of Directors, setting forth the time, place and agenda for the meeting not less than seven days prior to the time fixed for the meeting.

6.05 Quorum and Voting. At meetings of the Board of Directors, a majority of the Directors shall constitute a quorum for the transaction of business.

6.06 Presumption of Assent. A Director, who is present at a meeting of the Board at which action is taken, shall be deemed to have assented to the action taken unless his dissent or abstention is entered into the minutes of the meeting.

6.07 Chairing the Board. Meetings of the Board of Directors shall be chaired by the President or in his absence by the Vice President or in his absence by another Director.

6.08 Committees. The Board of Directors, by resolution adopted by a majority of Directors, may appoint one or more committees, as needed, each of which shall consist of one or more Directors, one of whom will be designated by the Board as the chair. Committees may appoint persons outside the Board to advise them as either voting or non-voting members. Committees are advisory to the Board and make decisions only as specifically delegated by the Board.

ARTICLE VII OFFICERS

7.01 Officers. The officers of the Association shall consist of the President, the Vice President, the Treasurer and the Secretary.

7.02 Duties of the President. The President shall be the Chief Executive Officer of the Association. In that capacity he shall be responsible to the Board of Directors for the management of the Park and execution of all programs approved by the Board. The President shall be responsible for keeping our partner, the City, informed on the Association's activities and future plans. The President shall chair meetings of the Board of Directors. The President, together with the Treasurer, shall be responsible for the preparation of the annual budget and present it to the Board for approval. The President shall also assign the duty of sending acknowledgement letters to donors and members and reassign other duties between Officers, Board Members and others as necessary to accomplish needed tasks.

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7.03 Duties of the Vice President. The Vice President is to assume the duties of the President when the President is unavailable.

Articles 7.04 through 7.07 have been deleted

7.08 Treasurer. The Treasurer shall collect and account for all revenues, deposit them with the City and the Yampa Valley Community Foundation, and write reports to keep the Board informed as to revenues. The Treasurer shall also prepare the annual budget, prepare regular reports showing revenue and expense performance against the budget and the financial status of the Association.

7.09 Secretary. The Secretary shall write and distribute minutes of all Board meetings and Annual Meetings. The Secretary shall keep the Attendance Register for Directors, write to Directors who have constructively resigned and so inform the Board (see article 5.03(b)). The Secretary shall be the keeper of the official documents of the Association. The Secretary shall ensure that the Association

meets its obligations under the Ordinance, the Agreement with the Foundation and these Bylaws by timely information to the Board.

Article 7.10 has been deleted

- 7.11 Delegation of Duties.** Whenever an Officer is absent, or whenever, for any reason, the President or the Board of Directors may deem it desirable, the President or the Board of Directors may delegate the powers and duties of an officer to any other officer or director. Despite any delegation of duties, the President is ultimately responsible for the operation of the Association.
- 7.12 Employees.** The Park Supervisor and all employees shall be City employees and the terms of their employment shall be in accordance with City employee policies. The Park Supervisor and all employees shall be hired, paid, evaluated and subject to termination by the President, in consultation with the Director of Horticulture and the City's Director of Parks and Recreation.
- 7.13 Park Supervisor.** The Park Supervisor shall be an Advisor to the Board, and be responsible to the President.
- 7.14 Job Descriptions.** Job descriptions are available in the Secretary's files for the guidance of Officers.

**ARTICLE VIII
ACCOUNTING AND BUDGETS**

- 8.01 Accounting.** All accounting and related functions are provided by the City. The Association's revenues are paid into the City's bank account; purchases are paid for out of City funds. Payroll is done by the City. The City's Director of Finance has set aside groups of revenue and expense accounts for the Association's use. City Council has authorized that surpluses may be carried from one year to another.
- 8.02 Preliminary Budget.** Each summer, at the request of the City's Parks and Recreation Director, the Treasurer and the President shall prepare a preliminary budget of revenue and expenses for the following year.
- 8.03 Budget.** Each winter the Treasurer and the President shall prepare a draft budget, based on anticipated revenues including a distribution from the endowment, which reflects the Association's operating plans for the coming season. This draft budget shall be distributed to all Board members. The final budget shall be approved by the Board of Directors.
- 8.04 Balanced Budget.** The President shall not propose, nor shall the Board approve a budget in excess of reasonably probable revenues, and shall not at any time permit the spending of more funds than have been received by the City for the

Association's accounts. This may mean the deferral of budgeted spending until funds are available.

ARTICLE IX THE ENDOWMENT AND FUTURE FUNDING OF THE PARK

- 9.01 The Endowment.** During their lifetime, C. Robert Enever and Audrey W. Enever ("the Enevers") plan to supply enough funds to the City so that with modest contributions from the public the financial needs of the Park will be met. Thereafter, the financial future of the Park will be provided for by an Endowment Fund ("the Fund") provided by the Enevers. The Yampa Valley Community Foundation ("the Foundation") is the present custodian of the Fund. The agreement between the Enevers and the Foundation provides that the Foundation will make a payment each year to the City to finance the operations of the Park (the "Botanic Park payments"), conditional upon the Park being maintained adequately and in accordance with the Mission Statement. The payments are intended to be prudent, in the sense that the Principal of the Fund should grow with inflation, and predictable, so the managers of the Park can make plans with reasonable knowledge of future revenue from the fund. A copy of the agreement between the Enevers and the Yampa Valley Community Foundation is attached to these Bylaws to inform future Boards.
- 9.02 Statement of Intent.** In their agreement with the Foundation, the Enevers have stated their wish and intent that the Association should continue indefinitely as a robust organization that manages the Park well and in accordance with the Mission Statement. This article provides that if the Association fails to properly maintain the Park, the City is empowered to take over the Park, and if the City fails to properly manage the Park, the Foundation is empowered to withdraw funding and donate the assets in the Fund to another cause.
- 9.03 Declaration of Emergency.** An Emergency shall be declared if the Park is not being managed in accordance with the Mission Statement, or is not being maintained at a sufficiently high standard as to be an amenity pleasing to both the Community and to visitors. An Emergency may be declared by the City's Director of Parks and Recreation, or by the Foundation, in a letter addressed to the City Council.
- 9.04 Emergency Action.** In the event of the declaration of emergency, the City's Director of Parks and Recreation is authorized to take any and all steps necessary to ensure the continued maintenance and good condition of the Park. He shall inform the City Council of the Emergency and of the actions he has taken and proposes to take. The Director of Parks and Recreation shall set a date for an organization meeting, and attempt to contact all known members of the Association and all persons known to have an interest in the Park, by letter, telephone and public advertisements to invite them to said meeting. At the Meeting the Director of Parks and Recreation shall explain the Emergency, and the Emergency Action

needed to revive the Association if the Park is not to be operated as a City Park. The Foundation shall continue to make the Botanic Park payments to the City during any such periods of Emergency.

- 9.05 Termination.** At least three months, but not more than twelve months after the meeting referred to in article 9.04, if the Association has NOT been activated to the extent that it can reasonably be expected to maintain the Park adequately, in the opinion of the Director of Parks and Recreation, he should place the item on the City Council's Agenda. The Association may then be terminated by an affirmative vote of the Steamboat Springs City Council in a public hearing at which termination of the Association was advertised as being on the agenda.
- 9.06 Reversion of the Park to the City.** After termination of the Association the responsibility for the Park will revert to the City.
- 9.07 Funding Conditional.** Whether the Association or the City manages the Park, the Foundation will continue to make the prescribed Botanic Park payments from the Fund to the City on two conditions:
- (a)** That the Park continue to be maintained according to the Mission Statement, as " a place of serenity, celebrating the trees, shrubs, plants and birds of the Yampa River Basin", and
 - (b)** That the Park be maintained at a sufficiently high standard that it is a pleasing amenity to both the Community and to visitors.
- 9.08 Warning Period and Redirection of Assets.** In the opinion of a majority of the Board of the Foundation, if the Park has not met these two conditions (article 9.07 (a) and (b)), the Foundation shall address a letter to the City Council, warning the City Council that the management of the Park has substantially deviated from the two conditions. If, twelve months after said warning, or at a later time, at the discretion of a majority of the Foundation's board, the City has not corrected the situation, the Foundation, by an affirmative two-thirds vote of its directors is authorized to send all the Assets of the Endowment Fund to the Yampa Valley Land Trust, or if it shall no longer be effective, to Routt County for the purchase of development rights, or if Routt County is reluctant to accept the funds for that purpose, to another organization that will use the funds for improving the environment of the Yampa Valley, at the discretion of the Foundation.
- 9.09 No Borrowing.** Neither the Association nor the City shall borrow against the Assets, nor against future contributions from the Foundation to the City.
- 9.10 Disasters.** In the event of a disaster that causes severe damage to the Park's facilities, the Principal of the Fund at the Foundation may not be invaded to repair the damage. It is hoped that the Community will find ways to fund the repairs to the Park, so that the Assets may be conserved to provide for future maintenance.

- 9.11 Termination of the Foundation.** After the death or judgemental disability of both the Enevers, and in the event of the termination, dissolution and distribution of the assets of the Yampa Valley Community Foundation, or any successor organization that becomes the owner of the Yampa River Botanic Park Endowment Fund, the City Council is empowered to direct the placement of the Fund to a suitable not-for-profit Foundation under the same general terms and conditions as the agreement between the Yampa Valley Community Foundation and the Enevers.

ARTICLE X AMENDMENTS

- 10.1** Articles 6.02 through 6.08, all of Article VII and all of Article VIII except 8.04 may be amended by the Board of Directors by a majority vote of all directors, whether present or not.
- 10.2** All other proposed Amendments must be mailed to all Members of the Association at least ten days before the Board Meeting at which approval is scheduled, and the Secretary shall so certify in writing before the Board votes.
- 10.3** Article 8.04 and all of articles IX and X may be amended by a majority of the Board of Directors only after the proposed amendments have been ratified by written resolutions approved by a majority vote of both the City Council of Steamboat Springs and the Board of the Yampa Valley Community Foundation.

ARTICLE XI MISCELLANEOUS

Throughout these bylaws words used in the singular include the plural, the plural includes the singular, the masculine includes the feminine and the neuter gender includes both masculine and feminine.

CERTIFICATE

I, Georgianne Nelson, hereby certify that I am the Secretary of the Yampa River Botanic Park Association, and that the forgoing amended bylaws of the Association were duly adopted by the Board of Directors of the Association on June 1, 2010. I further certify that notice of these amended bylaws of the Association were mailed to all members of the Association more than ten days before being adopted by the Board of Directors, and that no changes have been made to Article 8.04 or article IX or X, except to amplify the name of the Yampa Valley Community Foundation.

..... June 1, 2010

Georgianne Nelson, Secretary