

# **The Arboretum at Flagstaff**

## **Bylaws Approved by the Board of Directors in August 2019**

### **Section 1. General**

- 1.1 Principal Office.** The Corporation shall maintain a principal office in Coconino County, Arizona.
- 1.2 Articles of Incorporation.** The Articles of Incorporation dated July 17, 1981 established the Transition Zone Horticultural Institute, Inc., now doing business as The Arboretum at Flagstaff. The Articles of Incorporation are attached as Appendix I.
- 1.3 Mission.** The mission of The Arboretum at Flagstaff is to increase the understanding, appreciation, and conservation of plants and plant communities native to the Colorado Plateau.
- 1.4 Fiscal Year.** The fiscal year of the Corporation begins on January 1 and ends on December 31.

### **Section 2. Board of Directors**

- 2.1 Number and Election.** The Board of Directors (herein after referred to as “the Board”) shall consist of not less than 12 nor more than 18 persons (herein after referred to as “directors”). The minimum and maximum number of directors as stated above may be changed only by amendment of these bylaws. No reduction of the authorized number of directors shall have the effect of removing any director before his term of office expires. The normal term of office for a director shall be three years, and these terms shall be staggered so that approximately one-third of the terms shall expire at the same time and be refilled by a simple majority vote election. Directors may serve for two consecutive terms of three years. A director may again be elected to serve on the Board one year after serving two consecutive terms. Director nominees shall be recommended to the Board for election by the Executive Committee.
- 2.2 Powers and Duties.** It shall be the duty of the Board to control and manage the property and business of the Corporation, and to elect the officers of the Corporation who shall serve at the pleasure of the Board. Generally and without limitation, the Board shall have the power to operate the business of the Corporation in a prudent and careful manner in accordance with the Articles of Incorporation and the Mission of the Corporation. All rights, powers, and responsibilities shall be vested in the Board of the Corporation. Board members shall not be compensated for their service. The Corporation shall have no voting members.
- 2.3 Termination of Directorship.** A director's term of office shall terminate on the occurrence of any of the following events:

- a) Resignation of the director;

- b) Expiration of the period for which the director was elected under Section 2.1, unless the director is re-elected for a new term.
- c) Removal by a simple majority vote by the Board for non-attendance. The Board may vote to remove a director after two consecutive unexcused absences. An unexcused absence is defined as failure to notify or communicate to the president or executive director that the director is unavailable to participate in the meeting either in person or via phone or another mutually convenient electronic means.

- 2.4 Regular Meetings.** The Board shall establish the time and place of all regular meetings. Meetings of the Board for the following year shall be established at the Annual Meeting in December. Regular meetings of the Board shall be held at least bimonthly and at such other times determined by the vote of the executive committee.
- 2.5 Annual Meeting.** The annual meeting of the Board shall be held during the month of December. At the annual meeting, the directors shall elect officers, set the dates for the Board of Director meetings, and transact such other business as properly may be brought before the meeting. Notice of annual meetings shall be given at least 10 days prior to the meeting.
- 2.6 Special Meetings.** Special meetings of the Board may be called by the president on five days' notice to each director either personally, or by mail, telegram, telephone, facsimile, or e-mail.
- 2.7 Quorum.** A simple majority of the full membership of the Board shall constitute a quorum for conducting the business of the Board. If a director is unable to attend a Board meeting in person, it is acceptable for the director to participate via phone or other mutually convenient electronic means.
- 2.8 Action Without Meeting.** Any action required or permitted to be taken at any scheduled or special meeting of the Board may be taken without a meeting if a simple majority of all members of the Board consent thereto. Consent may be given by regular mail, telephone, facsimile, or e-mail. The writing or writings shall be filed with the minutes of proceedings of the Board at the next meeting. If such action is necessary, voting may be taken by regular mail, telephone, facsimile, or e-mail.
- 2.9 Policy Statements.** Policy statements may be prepared to govern the activities of the Corporation in the areas of administration, collections, research, and education & public programs, respectively. Each such policy statement shall be approved by the Board and shall thereafter govern the activities of the committee and the Corporation staff in the subject area. The committee shall adopt procedures for carrying out the stated policy and may alter, amend, and modify such procedures from time to time at its discretion. However, changes in the policy statements or departures from the stated policy must be approved in advance by the Board.
- 2.10 Waiver of Notice.** Attendance of a director at a meeting shall constitute waiver of notice of such meeting, except when a director attends the meeting for the express purpose of objecting to the transaction of any business or because the

meeting is not lawfully called or convened. Any director may waive notice of any annual, regular, or special meeting of directors by executing a written waiver of notice either before or after the time of the meeting.

- 2.11 Honorary Directors.** The Board may designate as honorary directors individuals who have provided exceptional service to The Arboretum. Honorary directors shall be given notice of all regular Board meetings. An honorary director may attend meetings of the Board but shall not vote. An honorary director shall not be considered part of the governance of the Corporation.

### **Section 3. Officers**

- 3.1 Titles.** The officers of the Corporation shall be elected by the Board and shall consist of a President, a Vice President, a secretary, and a treasurer. The officers shall be members of the Board.
- 3.2 Election of Officers.** The Board shall elect officers at the annual meeting in December. The Board at any time may elect such other officers and agents as it shall deem necessary to perform such duties as shall be determined by the Board. A vacancy in any office for whatever reason caused may be filled by the Board at any time in accordance with Section 2.1
- 3.3 President of the Board.** The president shall preside at all meetings of the Board. The president shall have authority to call special meetings of the Board pursuant to Section 2.6. The president shall appoint chairs of the Board's standing and ad hoc committees. In case of the permanent absence or inability of the president to act, the office shall be declared vacant by the Board and a successor elected by the Board.
- 3.4 Vice President.** The vice president shall have all the powers and perform all the duties of the president in case of the temporary absence of the president or in case of the president's temporary inability to act.
- 3.5 Secretary.** The secretary shall see that the minutes of all meetings of the Board are kept. The secretary shall give or cause to be given required notices of all meetings of the Board. The secretary shall also perform all other duties incident to the office of secretary of a Corporation.
- 3.6 Treasurer.** The treasurer shall have oversight of all the books, records, and books of account of the Corporation and perform all the duties incident to the office of treasurer of a Corporation and shall ensure the Corporation's compliance with all state and federal laws and regulations. The treasurer shall ensure that the financial policies and procedures adopted by the Board are followed.
- 3.7 Executive Director.** The Board shall employ an executive director. The executive director shall be the chief executive officer of the Corporation and shall have full authority and responsibility for carrying out the programs and policies of the Corporation as determined by the Board. The executive director shall be a non-voting member of all standing committees, including the executive

committee. The executive director shall participate in executive sessions of the Board only when requested to participate by the Board.

- 3.8 Authority.** The president and the executive director shall each have the authority to sign contracts, agreements, and other instruments requiring execution on behalf of the Corporation, subject to policies established by the Board.

## **Section 4. Committees**

- 4.1 Standing Committees.** The standing committees of the Board shall be as follows:

- a) Executive Committee
- b) Finance Committee
- c) Planning and Development Committee

Other standing committees may be established or disbanded as determined by the Board.

- 4.2 Ad Hoc Committees.** The president may appoint ad hoc committees for specific purposes. Each ad hoc committee shall function for a limited time only as specified by the Board. Ad hoc committees report to the Board.

- 4.3 Executive Committee Membership and Authority.** The members of the Executive Committee will be the officers of the Corporation. Additional directors may be elected to the Executive Committee by a majority vote of the Board. Each member of the Executive Committee will continue to serve until the election of officers at the next annual meeting and may continue in office until a successor is appointed. There may be certain circumstances requiring immediate action in which the Executive Committee may exercise the authority of the Board in the management of the Corporation between meetings of the Board. Full Board participation in actions between meetings may be appropriate in other circumstances (see section 2.8). The Executive Committee will evaluate the performance of the executive director prior to the executive director's contract renewal.

- 4.4. Committee Membership.** The chair of each committee shall be a director of the Corporation and shall be appointed by the president. The committee chair may appoint additional voting members of the standing committees (other than the Executive Committee) who need not be directors of the Corporation but shall be persons who have evidenced an interest and ability to advance the mission of the Corporation. Any committee member may be removed by the chair whenever in the judgment of the chair the interests of the Corporation would be best served by such removal.

- 4.5 Rules.** Each committee may adopt such rules and regulations for its meetings and the conduct of its activities as it may deem appropriate; such rules and regulations shall be consistent with these bylaws. Minutes of committee meetings shall be kept.

- 4.6 Quorum.** A simple majority of the whole committee shall constitute a quorum. The act of a simple majority of members present at a meeting at which a quorum is present shall be an act of the committee.

## **Section 5. Liability and Indemnification**

- 5.1 Director and Officer Insurance.** The Corporation shall maintain Director and Officer (D&O) insurance to cover directors and officers of the Corporation while functioning in an official capacity on behalf of the Corporation as described below in Section 5.2. The D&O policy shall be reviewed at the Board meeting following each policy renewal.
- 5.2 Liability.** No director of the Board nor officers of the Corporation shall be personally liable to the Corporation for monetary damages for breach of fiduciary duty as a director/officer of the Corporation unless the director or officer of the Corporation has breached or failed to perform the duties of director/officer of the Corporation in compliance with law, or has failed to perform the duties of the director/officer through willful misconduct or recklessness. The Corporation shall indemnify every director or officer of the Corporation against reasonable expenses, including legal expenses, necessarily incurred by such person who was or is a party or is threatened to be made a party to any threatened, pending a completed civil or administrative action, suit or proceeding, or as a result of an investigation by federal, state or governmental agencies, by reason of the fact that such person was a director/officer of the Corporation provided that:
- a) Such person acted in good faith and in a manner such person reasonably believed to be in, or not opposed to, the best interest of the Corporation;
  - b) Such person did not act or did not act willfully or with gross negligence, or with fraudulent or criminal intent;
  - c) Any legal fees paid (arrangements for representation or legal fees must be discussed with the Board and evaluated for reasonableness and approved before they are incurred) or any settlements made are reasonable and approved by the Board; and
  - d) The person seeking indemnification did not act beyond the scope of his/her authority and responsibility as set forth in the Bylaws, and the policies of the Corporation.
- 5.3 Indemnification.** This right of indemnification shall not be exclusive of other rights to which any Board member or officer or employee may be entitled as a matter of law and shall include reimbursement of any amounts and expenses paid or incurred settling any such action, suit or proceeding when such settlement has been approved by the Board. The power of indemnification under the Arizona Revised Statutes shall not be denied or limited by these Bylaws.

## **Section 6. Finances**

- 6.1 Financial Policies.** Financial Policies appear in a separate document and are designated in Appendix 2.

## **Section 7. Bylaw Amendments**

- 7.1 Amendments.** These bylaws may be amended by a two thirds ( $\frac{2}{3}$ ) vote of the full Board at any meeting to which proper notification is given pursuant to these bylaws. Any proposed amendments, alterations, substitutions, repeals, or other changes to these bylaws must be provided in writing or via e-mail or facsimile to directors of the Board at least five days prior to the meeting in which they are to be considered.

- 7.2 Bylaw Review.** These Bylaws shall be reviewed at least every three years by an ad hoc bylaws committee appointed by the president.

Approved and adopted as written by the Board of the Transition Zone Horticultural Institute, Inc. dba The Arboretum at Flagstaff at its regular Board meeting held on August 15, 2019 in Flagstaff, Arizona.

**APPENDIX 1**  
**ARTICLES OF INCORPORATION**

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# ARTICLES OF INCORPORATION

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APPROVED [Signature] TRANSITION ZONE HORTICULTURAL INSTITUTE, INC.

DATE 8-4-81 FILE # 110386

TERMS KNOWN ALL MEN BY THESE PRESENTS:

DATE 8-4-81 TIME 2:22 PM

APPROVED [Signature] FILE # 110386  
DATE 8-4-81 TIME 3:25 PM

That we, the undersigned, have this day associated ourselves together for the purpose of forming a nonprofit corporation under and pursuant to the laws of the State of Arizona and for that purpose do hereby adopt these Articles of Incorporation.

## ARTICLE I

NAME: The name of the corporation shall be: TRANSITION ZONE HORTICULTURAL INSTITUTE, INC.

## ARTICLE II

PLACE OF BUSINESS: The principal place of business shall be Flagstaff, Coconino County, Arizona.

## ARTICLE III

PURPOSE: The purpose for which this corporation is organized is for the promotion and support of scientific research, educational activities and the transaction of any or all lawful business for which nonprofit corporations may be incorporated under the laws of the State of Arizona, as they may be amended from time to time, including but not limited to the following propositions:

1. The conservation of native plants of the San Francisco Peaks--Colorado Plateau area.
2. Experimentation with adaptation of plants of the transition zone from other locations.
3. Testing conditions under which plants not grown locally may be adaptable.
4. Demonstration of methods for cultivation which require low water consumption and other protection techniques for soil.
5. Teaching the inherent values for man of the natural environment and the practices which will serve both man and nature best and enrich each without significant damage to either.
6. Investigating, extrapolating and comparing the empirical as well as theoretical resultant on the economic environment of various treatments of soil interplanting, greenhouse culture and planting of new variatals developed for parallel growing conditions.



Within the general purview of the foregoing, the Foundation shall concentrate its efforts on the objectives listed below, by way of example and not of limitation:

1. The development of small forest or meadow areas with appropriate plant materials.
2. The use of environmental resources of the site; testing for the best type of cultivation (or benign neglect) to enhance productivity of the soil.
3. The harvest of edible wildings.
4. The utilization of "waste": weeds, prunings, thinnings, and domestic refuse from metal, glass, plastic and biodegradable material including "gray water."
5. The experimentation with various systems of solar, water and wind power for applications of different sorts.
6. The test of a variety of ways to relate man and nature when they come in contact.
7. The use of multiple sites; the repetition of tests and demonstrations.
8. The melding of research in all the above areas together with regional studies now in progress.
9. The collection of relevant information as to all these purposes with the specific intention that these resources be made available to scientists and program operators with similar eleemosynary objectives.
10. The publication, dissemination or sale of significant results relating to the activities delineated above.
11. The sponsorship of research, both scholarly and empirical (or basic and applied).
12. Cooperation with other philanthropic institutions of like purpose and pursuit.
13. The solicitation of funds to support the purposes of the Institute and the sale of plants, seeds, or other usufruct of the operations thereof.

#### ARTICLE IV

**INITIAL BUSINESS:** Said corporation is organized exclusively to establish a nonprofit organization for educational and scientific purposes within the meaning of Section 501(c)(3) of the Internal Revenue Code of 1954, including for such purposes the making of distributions to organizations that qualify as exempt organizations under Section 501(c)(3) of the Internal Revenue Code of 1954 (or the corresponding provisions of any future United State Internal Revenue Laws).

## ARTICLE V

### **LIMITATIONS:**

(1) No part of the net earnings of the corporation shall inure to the benefit of, or be distributable to its members, directors, officers, or other private persons, except that the corporation shall be authorized and empowered to pay reasonable compensation for services rendered and to make payments and distributions in furtherance of the purposes set forth in Article IV.

(2) No substantial part of the activities of the corporation shall be the carrying on of propaganda, or otherwise attempting to influence legislation, and the corporation shall not participate in, or intervene in (including the publishing or distribution of statements), any political campaign on behalf of any candidate for public office.

(3) The corporation shall not engage in any act of self-dealing as defined in section 4941(d) of the Internal Revenue Code of 1954, or corresponding provisions of any subsequent Federal tax laws.

(4) The corporation shall not make any investments in such manner as to subject it to tax under section 4944 of the Internal Revenue Code of 1954, or corresponding provisions of any subsequent Federal tax laws.

(5) Notwithstanding any other provision of these Articles, the corporation shall not carry on any other activities not permitted to be carried on: (a) by a corporation exempt from Federal Income Tax under Section 501(c)(3) of the Internal Revenue Code of 1954, (or the corresponding provision of any future United States Internal Revenue Law) or; (b) by a corporation, contributions to which are deductible under Section 170(c)(2) of the Internal Revenue Code of 1954, (or the corresponding provisions of any future United States Internal Revenue Laws).

## ARTICLE VI

**PROCEDURE ON DISSOLUTION:** Upon the dissolution of the corporation, the Board of Directors, after paying or making provision for the payment of all of the liabilities of the corporation, shall dispose of all of its assets to advance the charitable purposes of the corporation, or to such organizations organized and operated exclusively for charitable, educational, religious or scientific purposes as shall at the time qualify as an exempt organization or organizations under Section 501(c)(3) of the Internal Revenue Code of 1954 (or the corresponding provision of any future United States Internal Revenue Laws) as the Board of Directors shall determine. Any assets not disposed of shall

be disposed of by the Superior Court of the county in which the principal office of the corporation is then located, exclusively for such purposes.

#### ARTICLE VII

**INDEMNIFICATION:** The power of indemnification under the Arizona Revised Statutes shall not be denied or limited by the bylaws.

#### ARTICLE VIII

**ANNUAL MEETING:** The annual meeting is to be held at a place within or without the State as fixed by the bylaws.

#### ARTICLE IX

**STATUTORY AGENT:** The name and address of the initial statutory agent of the corporation is:

Samuel P. Goddard III  
101 North First Avenue  
Suite 2515  
Phoenix, AZ 85003

#### ARTICLE X

**BYLAWS:** The power to make, alter, amend or repeal the bylaws or adopt new bylaws shall be vested in the Board of Directors.

#### ARTICLE XI

**BOARD OF DIRECTORS:** There shall be no less than three (3) nor more than twenty-five (25) directors. Names and addresses of the directors, who are also the incorporators, are: Samuel P. Goddard, Jr., 101 North First Avenue, Suite 2515, Phoenix, AZ 85003; Robin Cameron, 121 East Birch, Suite 205, Flagstaff, AZ 86001; Samuel P. Goddard III, 101 North First Avenue, Suite 2515, Phoenix, AZ 85003.

Subject to the limitations fixed in the Arizona Revised Statutes relative to the persons constituting the initial Board of Directors, the bylaws shall fix the number of directors, the manner of their election or selection and term of office.

#### ARTICLE XII

The private property of the incorporators, directors, officers and members of this corporation shall be forever exempt from its debts and obligations.

IN WITNESS WHEREOF, for the purpose of forming this corporation under the laws of the State of Arizona, we, the undersigned, constituting the incorporators of this corporation, have executed these Articles of Incorporation this 17th day of July, 1981.

  
Samuel P. Goddard, Jr.

  
Robin Cameron

  
Samuel P. Goddard III

I, Samuel P. Goddard III, having been designated to act as Statutory Agent, hereby consent to act in that capacity until removed, or resignation is submitted in accordance with the Arizona Revised Statutes.

  
Samuel P. Goddard III