

BY-LAWS OF THE
WALNUT CREEK MASTER SWIM TEAM
Originally approved May 25, 1989 and amended December 11, 1993; December 9,
2001; December 9, 2007; and February 13, 2011

ARTICLE I
NAME AND PURPOSE

Section 1.

This corporation shall be known as the WALNUT CREEK MASTERS SWIM TEAM.

Section 2.

The purpose of this corporation is to provide to the community at large, the training and coaching necessary to compete in national and international swimming events, as well as local, state, and regional competitions; to promote physical and mental fitness; and to encourage and support interest in competitive swimming.

Section 3.

The income and assets of the Corporation are irrevocably dedicated to charitable purposes and no part of the net income or assets of the organization shall ever inure to the benefit of any director, officer or member thereof or to the benefit of any private person.

Section 4.

The Corporation may be dissolved by vote of the Directors, or by the action of the Board of Directors in accordance with the provisions of California law. Upon the dissolution of the Corporation, and after payment or provision for payment, of all debts and liabilities, the assets of the Corporation shall be distributed to a nonprofit fund, foundation, or corporation which is organized and operated for charitable purposes and which has established its tax-exempt status under Section 501(c)(3) of the Internal Revenue Code of 1986.

ARTICLE II
MEMBERSHIP

Section 1.

Membership in this corporation is open to any person who is a member of the Pacific Masters Swimming Association and meets the swimming ability standards approved by the Head Coach. Membership in this corporation shall not be denied by virtue of race, ethnicity, gender, religion, political affiliation, disability, sexual orientation, national origin, marital status, or any other characteristic protected by federal, state or local law.

Section 2.

Membership shall consist of two categories: voting and non-voting. Voting members shall be Regular members. All others shall be Associate members and shall not be entitled to vote or hold office in the corporation. However, all members, Regular or

Associate, shall be eligible for participation in all competitive swimming events. The Board of Directors may establish additional rights and benefits of membership.

Section 3.

Regular members shall be entitled to the privilege of holding office and have the right to one vote in each election or when a vote of the membership is called. There shall be no provision, or right to a proxy vote by a member.

Section 4.

Dues shall be set annually by the Board of Directors.

Section 5.

Membership shall be suspended for failure to pay dues within 30 days of the due date. During the period of suspension, the member may not vote nor take part in the activities of the corporation granted to membership. If dues remain unpaid after 30 days beyond the due date for the payment of dues, the member shall be removed from the roles of membership. The Board of Directors may require a reinstatement fee for those members who have been removed from the roles of membership for failure to pay dues.

Section 6.

A member may be expelled for misconduct prejudicial to the best interests of the corporation or contrary to its purpose.

Section 7.

Any member may bring an action for expulsion, against another member, alleging misconduct prejudicial to the best interests of the corporation, by submitting the facts supporting the alleged misconduct, in writing, to the Board of Directors, and signed by the accusing member. The Board of Directors, upon receipt, in writing, of an allegation of misconduct against a member, will notify the member so accused, in writing, of the allegations of misconduct and furnish a copy of the allegations submitted by the accusing member.

The Board shall also inform the accused member, in writing, of his/her right to respond in writing and to appear before the Board following submission of such written response.

If a member, so accused, fails to respond within 30 days of the date of notice, by the Board, of allegations of misconduct, the Board may make a finding, taking such action as appropriate to remedy the situation.

In no event shall any such matter remain for more than 90 days.

ARTICLE III MEETINGS

Section 1.

There shall be an annual meeting of the membership for the nomination and election of Directors and any other business as necessary for the corporation.

Section 2.

The Board of Directors may call other membership meetings upon a majority vote of the Directors or by petition of 10% of the regular membership. All regular members shall be provided with adequate notice of such meetings, by the Board, through the use of email messages, website posting, posting at workouts, or any other means available to provide sufficient notice to the membership.

Section 3.

The date, time, and place of all meetings shall be set by the Board of Directors.

Section 4.

In the case of a petition of 10% of the Regular members, the Board of Directors shall certify that the petition contains the required signatures and must set the date, time, and place for the meeting within 10 days of the certification.

Section 5.

A quorum for the transaction of business at all membership meetings shall be 10% of the regular members.

Section 6.

All meetings shall be governed by Robert's Rules of Order. Such rules may be revised from time to time in so far as they are inconsistent with or in conflict with these By-Laws, the Articles of Incorporation or with provisions of law.

ARTICLE IV BOARD OF DIRECTORS

Section 1.

The governing body of the corporation shall be its Board of Directors, consisting of at least eight (8) but no more than eleven (11) members, including a President, a Vice President, a Secretary, and a Treasurer who shall serve as Officers. For the purposes of conducting business, a quorum of the Board shall be a majority of the voting members present.

Section 2.

Within thirty (30) days of election, the Board shall meet to elect by majority vote a President and Vice President. The President shall appoint the Treasurer and the Secretary. The President, Vice President, Treasurer, Head Coach and Team Manager

shall be the sole members of the Executive Committee. The Head Coach and Team Manager shall be non-voting members of the Executive Committee.

Section 3.

The Board of Directors shall meet at least four (4) times each year at the date, time and place set by the Board or called by the President.

Section 4.

Notice of Board meetings shall be posted on the corporation's website.

Section 5.

Subject to the provisions of the non-profit corporation law, the business affairs of this corporation shall be managed, and all corporate powers shall be exercised, by or under the direction of the Board of Directors.

Without prejudice to these general powers the Directors shall have the power to:

- a. Select and remove all agents and employees of the corporation; prescribe any powers and duties for them consistent with the law, with the Articles of Incorporation and with these By-Laws; and fix their compensation.
- b. Change the principal office of the corporation in the State of California from one location to another.
- c. Cause the corporation to be qualified to do business within the State of California.
- d. Adopt, make use and alter the form of the corporate seal.
- e. Borrow money, incur indebtedness on behalf of the corporation and cause to be executed and delivered for the corporation's purposes, in the corporation's name, promissory notes, bonds, debentures, deeds of trust, mortgages, pledges, and other evidence of debt and securities.
- f. Appoint an Executive Director of the corporation who shall serve as Head Coach and who shall administer the day-to-day operations of the corporation. The Executive Director (hereinafter referred to as the Head Coach) shall be an ex officio member of the Board with no voting rights.

Section 6.

The Head Coach shall:

- a. Administer the day-to-day operation of the corporation including organization of team workouts, the administration of the budget as approved by the Board of Directors, issuing and accepting payments on behalf of the corporation, registration of the Team with Pacific Masters Swimming and United States Masters Swimming and accepting membership.
- b. Appoint Assistant Coaches to assist in coaching responsibilities and set their compensation within the overall budget for coaches' salaries as approved by the Board.
- c. Appoint a Team Manager to assist in administrative responsibilities.
- d. Appoint an Accountant to provide additional financial support, conduct regular reviews of the business of the Corporation and file documents necessary under Federal and State regulations on behalf of the Corporation.

Upon approval by the Board the Team Manager may be given appropriate access to Team bank accounts and membership records to carry out Head Coach's administrative and financial responsibilities and be granted ex-officio status on the Board with no voting rights.

The Board shall approve the compensation of all appointments made by the Head Coach.

Section 7.

The term of office for all Directors and Officers shall be two (2) years.

Section 8.

The Board of Directors may declare vacant the office of an Officer or Director upon the occurrence of any of the following events during his/her term:

- a. The Officer or Director has been declared of unsound mind by a final order of the court; or
- b. The Officer or Director has been convicted of a felony; or
- c. The Officer or Director has been found by a final order or judgment of any court to have breached any duty under Article III of the California Public Benefit Corporation Law.

Section 9.

Any Officer or Director may be removed without cause if such removal is approved or ratified by a two thirds (2/3) vote of the Board of Directors and such removal is approved by a majority vote of regular members by written ballot in attendance at a Membership meeting.

Section 10.

Vacancies on the Board of Directors (including Officer positions) may be filled to serve the balance of a term declared vacant by a vote of the majority of the remaining Directors.

Section 11.

Directors shall serve without compensation, but may receive such reimbursement of expenses as the Board may establish by resolution to be just and reasonable as to the corporation at the time that the resolution is adopted.

Section 12.

Subject to their fiduciary responsibilities and standards of conduct for directors including, but not limited to, the duty of care, the duty of loyalty, the duty of inquiry and other duties imposed by law, the Directors shall not be personally liable for the debts, liabilities or other obligations of the corporation.

ARTICLE V
FISCAL YEAR

Section 1.

The fiscal year of the Corporation shall begin on the first day of January and end on the last day of December.

ARTICLE VI
ELECTIONS

Section 1.

The Corporation shall hold an annual election to choose the Directors of the Corporation. This election shall take place at the annual meeting as designated by the Board of Directors.

Section 2.

At least sixty (60) days prior to the annual election, the Chair shall appoint a nominating committee and its chair, consisting of at least three (3) regular members.

The committee shall meet and propose at least one candidate for each vacant position on the Board and report their decision to the Board at least thirty (30) days prior to the annual election.

Section 3.

The Board shall notify the regular membership of the nominees selected by the nominating committee, utilizing email messages, posting on the team website, handouts, posting at workouts and any other means available.

At the annual meeting, nominated candidates and anyone wishing to be a write-in candidate for election will be allowed to submit written statements of candidacy for presentation to the membership.

Section 4.

The election shall be by written ballot provided to each regular member in attendance at the annual meeting.

Section 5.

Ballots shall be counted by three (3) members appointed by the Chair who are not candidates for election. No proxy votes shall be accepted.

ARTICLE VII
EXECUTIVE COMMITTEE POWERS

Section 1.

The Executive Committee, to the extent provided by a Resolution of the Board, shall have all the authority of the Board except that the Committee may **not**, regardless of Board resolution:

- a. Take any final action on matters which, under the California Non-Profit Benefit Corporation Law, requires member approval or approval of a majority of all the members.
- b. Fill vacancies on the Board of Directors.
- c. Appoint a Head Coach or fix compensation of Directors and Officers serving on the Board or any committee, the Head Coach, Assistant Coaches, Team Manager, Auditor/Accountant, and others who provide services on behalf of the Corporation.
- d. Amend or repeal By-Laws or adopt new By-Laws.
- e. Amend or repeal any resolution of the Board of Directors which, by its expressed terms, is not so amenable or repealable.
- f. Expend corporate funds to secure a nominee for the Board of Directors after there are more people nominated for the position than can be elected.
- g. Make any changes to the Corporation's annual operating budget which on a cumulative basis exceeds ten thousand dollars (\$10,000).
- h. Approve any transaction:
 1. To which the Corporation is a party and in which one or more Board members has a financial interest.
 2. Between the Corporation and one or more of its Board Members, or between the Corporation or any entity in which one or more of its Board members have a material financial interest.

Section 2.

The Executive Committee shall report all discussions and decisions to the Board at the Board's next meeting.

ARTICLE VIII
DUTIES OF OFFICERS

Section 1.

The President shall preside at all meetings of the corporation and its Board of Directors. The President shall appoint all committees and committee chairs. The President shall prescribe all duties of other members of the Board to provide the functions as necessary for the operation of the Corporation.

Section 2.

The Vice President shall perform all the duties of President during the absence or inability of the President to act or during the period of a vacancy in the office of President.

Section 3.

The Secretary shall keep records of the corporation, record the minutes of Executive Committee, Board of Directors and Membership meetings and issue all official notices of all Board of Directors and Membership meetings.

Section 4.

The Treasurer shall be custodian of all corporate funds, oversee the receipt of all corporate funds and all deposits to corporate accounts, oversee disbursement of corporate funds as authorized in accordance with the budget, oversee the maintenance of accurate and reliable financial records that document the receipt and disbursement of corporate funds, and ensure that internal accounting controls are in place to protect corporate assets. The President, Vice President, Head Coach, Team Manager and Accountant shall be ineligible for the position of Treasurer.

ARTICLE IX
INDEMNIFICATION AND INSURANCE

Section 1.

To the fullest extent permitted by law, this corporation shall indemnify its directors, officers, employees, and other persons described in Corporations Code section 5238(a), including persons formerly occupying any such positions, against all expenses, judgments, fines, settlements, and other amounts actually and reasonably incurred by them in connection with any "proceeding," as that term is used in that section, and including an action by or in the right of the corporation, by reason of the fact that the person is or was a person described in that section. "Expenses," as used in this By-Law, shall have the same meaning as in that section of the Corporations Code.

On written request to the Board by any person seeking indemnification under Corporations Code section 5238(b) or section 5238(c), the Board shall promptly decide under Corporations Code section 5238(e) whether the applicable standard of conduct set forth in Corporations Code section 5238(b) or section 5238(c) has been met and, if so, the Board shall authorize indemnification.

To the fullest extent permitted by law and except as otherwise determined by the Board in a specific instance, expenses incurred by a person seeking indemnification under this Article IX, Section 1 of these By-Laws in defending any proceeding covered by this Section shall be advanced by the corporation before final disposition of the proceeding, on receipt by the corporation of an undertaking by or on behalf of that person that the advance will be repaid unless it is ultimately found that the person is entitled to be indemnified by the corporation for those expenses.

Section 2.

This corporation shall have the right, and shall use its best efforts, to purchase and maintain insurance to the full extent permitted by law on behalf of its officers, directors, employees, and other agents, to cover any liability asserted against or incurred by any

officer, director, employee, or agent in such capacity or arising from the officer's, director's, employee's or agent's status as such.

ARTICLE X AMENDMENT OF BY-LAWS

Section 1.

These By-Laws may be amended by a 2/3 vote of the Board of Directors and ratified by a majority vote of the regular membership.

Section 2.

Amendments in the form of additions or deletions to these By-Laws may be proposed at any meeting of the membership and submitted to the membership in the same manner as for the election of Directors.