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# CONSTITUTION AND BY-LAWS

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Old Town Playhouse, Inc.

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Rick Korndorfer, President

Brian Dungjen, Vice President

John Dew, Treasurer

Jessica Rickard, Secretary

Larry Avery

Marcia Bellinger

June Neal - President TCCT

Brett Nichols - Chair Artistic Committee

Kristina Nichols

Phil Murphy - OTP Executive Director (Ex-Officio)

Carly McCall – Recording Secretary

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# Index of Articles

ARTICLE I – NAME.....	4
1.0.1 – Name of the Corporation and Principal Office.....	4
ARTICLE II – PURPOSE AND POWERS OF THE CORPORATION.....	4
2.0.1 – Purposes and Powers.....	4
2.0.2 – Restriction on Powers.....	5
ARTICLE III – MEMBERSHIP.....	5
3.0.1 – Membership in the Organization.....	5
3.0.3 – Active Voting Membership.....	5
3.0.4 – Non-Voting Membership.....	6
3.0.5 – Removal from Membership.....	6
ARTICLE IV – FISCAL YEAR.....	6
4.0.1 – Fiscal Year.....	6
ARTICLE V – GOVERNMENT.....	6
5.0.1 – Government of the Corporation.....	6
ARTICLE VI – BOARD OF TRUSTEES.....	6
6.0.1 – Powers and Duties.....	6
6.0.2 – Number and Term of Office.....	7
6.0.3 – Meetings.....	7
6.0.4 – Resignation.....	8
6.0.5 – Removal.....	8
6.0.6 – Vacancies.....	8
ARTICLE VII – OFFICERS.....	8
7.0.1 – Title and Compensation.....	8
7.0.2 – Election and Term of Office.....	9
7.0.3 – The President.....	9
7.0.4 – The Vice-President.....	9
7.0.5 – The Secretary.....	9
7.0.6 – The Treasurer.....	9
7.0.7 – Resignation of Officers.....	9
ARTICLE VIII – COMMITTEES.....	10
8.0.1 – Executive Committee.....	10
8.0.2 – Other Committees.....	10
ARTICLE IX – ANNUAL MEETING.....	10
9.0.1 – Annual Meeting and Notice.....	10
ARTICLE X – AMENDMENTS TO THE BY-LAWS.....	11

10.0.1 – Method of Amendment, Alteration, or Repeal.....	11
10.0.2 – Adoption of Amendment, Alteration, or Repeal.....	11
10.0.3 – Notification.....	11
ARTICLE XI – DISSOLUTION OF THE CORPORATION .....	12
10.0.1 – Dissolution.....	12
ARTICLE XII – INDEMNIFICATION OF OFFICERS AND TRUSTEES.....	12
12.0.1 – Power to Indemnify in Actions, Suits or Proceedings.....	12
12.0.2 – Insurance.....	13

## **ARTICLE I – NAME**

### 1.0.1 – Name of the Corporation and Principal Office

A – The name of this non-profit, non-stock corporation, as incorporated under the laws of the State of Michigan, shall be the “Old Town Playhouse, Inc.”.

B – The principal office is located at 148 East 8<sup>th</sup> Street in the City of Traverse City, County of Grand Traverse, State of Michigan.

C – The By-Laws of Old Town Playhouse, Inc, shall be read in conjunction with the Old Town Playhouse, Inc. Policies.

## **ARTICLE II – PURPOSE AND POWERS OF THE CORPORATION**

### 2.0.1 – Purposes and Powers

The purposes and powers of this corporation shall be:

A – To encourage, advocate, promote and sponsor public appreciation, understanding and support for all the arts in the five county Grand Traverse area (Grand Traverse, Leelanau, Benzie, Antrim and Kalkaska counties) including, without limitation, all visual, performing, literary and environmental arts, within the meaning of Section 501(c)(3) of the Internal Revenue Code and its regulations, as they may exist, or as they may be subsequently amended.

B – To solicit and receive grants, contributions and other property; to enter into contracts; to engage needed personnel and services; and to transfer, hold or invest such property as may be required to carry out the purposes of this corporation.

C – To effect and perpetrate its purposes and objectives, this corporation may produce, present, sponsor, support and/or engage in any theatrical enterprise or activities in allied fields of endeavor, professional or non-professional, of any kind whatsoever, and may charge dues or donations to said enterprises; it may offer instruction with or without charge in the field of dramatic arts and allied activities; it may lease, hold, purchase, buy or sell such real estate and personal property as may be necessary or reasonably incident to the conduct of its activities; it may take, accept, and receive property, real or personal, in money or things of value, by gift, device, bequest or other device; and do anything and everything necessary or reasonable, incident to carrying out the purposes and objectives of the Old Town Playhouse, Inc.

### 2.0.2 – Restriction on Powers

A – No part of the money or other property received by the corporation from any source, including its operations, shall inure to the benefit of, or be distributable to, its members, members of its governing bodies, officers, or other private persons; except that the corporation may pay reasonable compensation for services rendered and make payments and distributions in furtherance of the purposes set forth in this Article.

B – No substantial part of the activities of the corporation shall be the carrying on of propaganda or otherwise attempting to influence legislation, except as may be elected under Section 501 (h) of the Internal Revenue Code of 1954 (as it may be amended); and the corporation shall not participate in any political campaign on behalf of, or in opposition to, any candidate for public office.

C – Notwithstanding any other provisions of these By-Laws, this corporation shall not carry on any activities not permitted to be carried on by a corporation exempt from federal income tax under Section 501 (c) (3) of the Internal Revenue Code of 1954, or by a corporation that may receive contributions which are deductible to their donors under Section 170 (c) (2) of the Internal Revenue Code of 1954 (as these sections may be amended).

## **ARTICLE III – MEMBERSHIP**

### 3.0.1 – Membership in the Organization

A – Any interested person who agrees to its By-Laws, and to the rules and regulations, as hereinafter delineated, shall be eligible for membership in this organization. Participation in the activities of the corporation shall not be limited exclusively to its voting members.

B – The Old Town Playhouse prohibits discrimination in employment and participation of volunteers in any programs on the basis of religion, race, color, national origin, age, sex, marital status, sexual orientation, height, weight or physical disability.

### 3.0.2 – Classes of Membership

The organization shall have two (2) classes of members. The designations are as follows:

- A. Voting Members
- B. Non-Voting Members

### 3.0.3 – Active Voting Membership

A – All persons involved with the organization are eligible for a voting membership upon up-to-date payment of dues.

B – The Board of Trustees shall establish the annual dues for voting membership.

C – Each individual voting member is entitled to one vote at general membership meetings. Family memberships are not to exceed two votes. Members must be at least fourteen (14) years of age. There shall be no proxy voting, however, voting by absentee ballot is permitted through procedures adopted by the Board of Trustees.

D – Any appointee to a board shall be a voting member of the organization. Voting membership is required to fill all elected positions.

#### 3.0.4 – Non-Voting Membership

A – All persons involved with the organization are automatically considered Non-voting Members. This includes all participants, subscribers, donors, as well as vendors of in-kind services.

#### 3.0.5 – Removal from Membership

The Board of Trustees may remove any individual member from membership for activity flagrantly contrary to the goals, mission, best interests or the purposes of the organization. A three fourth (¾) majority of the sitting Board of Trustees shall be required for removal. Any person removed may also be reinstated by the same three fourth (¾) majority vote.

### **ARTICLE IV – FISCAL YEAR**

#### 4.0.1 – Fiscal Year

The fiscal year shall be from July 1 to June 30.

### **ARTICLE V – GOVERNMENT**

#### 5.0.1 – Government of the Corporation

A Board of Trustees shall govern the Corporation.

### **ARTICLE VI – BOARD OF TRUSTEES**

#### 6.0.1 – Powers and Duties

A – All the rights, powers, duties and responsibilities relative to the management and control of this corporation's property and affairs and its divisions are vested in the Board of Trustees. These powers exist in the Trustees meeting as a group and not in individual members or committees, except as such powers may be delegated by the Board of Trustees.

B – The Trustees have a fiduciary duty to exercise reasonable care and prudence in the administration and affairs of this corporation and are responsible for seeing that the funds and

property received by the corporation are disbursed only for the purposes for which they were given. The Board of Trustees may not delegate this final responsibility and shall require a regular accounting of all funds disbursed by the corporation.

C – It may appoint and remove such officers, clerks or employees as it may deem necessary and fix their duties, hours, and compensation.

D – It shall adopt an annual operating budget, transact all corporation business, set ticket prices, set the number of shows per year and the number of performances per show, and, upon recommendation of the Artistic Committee, approve season slate.

E – It shall be responsible for membership, marketing and publicity, box office, subscription campaign, special fundraising, program advertising and physical plant.

#### 6.0.2 – Number and Term of Office

A – The Board of Trustees shall consist of up to fifteen (15) members. Three (3) trustees shall be elected by and from the general membership at the annual membership meeting in June (2 in odd years and 1 in even years). The remaining trustees shall be elected or appointed by the sitting Board of Trustees.

B – The service term for a Trustee is 2 years. All members of the Board of Trustees may be re-elected or reappointed as appropriate.

#### 6.0.3 – Meetings

A – It shall meet the second Tuesday of every month. Meetings will be open to the general membership. While portions of meetings may be closed, no voting will occur during closed sessions.

B – The President (or the Vice-President in the absence of the President) shall preside over each meeting of the Board of Trustees. Meetings may be conducted either informally or by Robert's Rules of Order, at the discretion of the presiding officer, unless the majority of those present request that Robert's Rules of Order be followed.

C – The presence of a majority of the Trustees shall be necessary to constitute the quorum necessary for the conduct of business. If fewer Trustees are present, the actions taken at the meeting shall be valid only if enough of the Trustees who were absent sign written consent(s), thus providing support for the action(s) taken by the majority of all Trustees present, providing all Trustees are provided with notice of the action within reasonable time.

D – Except as otherwise provided by these By-Laws or by statute, all matters before the Board of Trustees shall be decided by a majority of the Trustees present at the meeting. The presiding officer shall not vote unless there is a tie vote.

E – Special Meetings of the Board of Trustees may be called at any time by action of the President or by three (3) Trustees. Notice of special meetings shall be given at least three (3) days before the day of the meeting and shall state the time, place, and purpose of the meeting.

#### 6.0.4 – Resignation

Any Trustee may resign at any time by delivering a written resignation to the President or Secretary. The acceptance of such a resignation shall not be necessary to make it effective.

#### 6.0.5 – Removal

Any Trustees may be removed at any time for cause, including conduct injurious to the best interests of the corporation, or missing of more than two (2) consecutive monthly meetings, by the affirmative vote of six (6) Trustees provided that notice of the meeting specified the proposed removal.

#### 6.0.6 – Vacancies

The Board of Trustees shall have the power to fill vacancies that may occur on the Board of Trustees by reason of death, resignation, incapacitation or removal. Newly appointed members shall remain in office until the next annual membership meeting.

### **ARTICLE VII – OFFICERS**

#### 7.0.1 – Title and Compensation

The principal officers of the corporation shall be the President, Vice-President, Secretary, and Treasurer of the Board of Trustees. The Board of Trustees may appoint or elect, from time to time, additional officers, as it deems appropriate. All of the principal officers shall serve without compensation.

#### 7.0.2 – Election and Term of Office

The officers of the corporation shall be elected annually by the Board of Trustees at the annual meeting of the Old Town Playhouse Corporation. Each officer selected at the annual meeting of the Board of Trustees shall take office immediately upon election at such annual meeting. If the election of officers shall not be held at such meeting, such election shall be held as soon thereafter as convenient. Vacancies may be filled or new offices created and filled at any meeting of the Board of Trustees. Each officer shall hold office until such officer's successor shall have been duly elected and shall have qualified or until such officer's death or until such

officer shall resign or shall have been removed in the manner hereafter provided. Any officer may succeed himself or herself.

#### 7.0.3 Removal

Any officer or agent elected or appointed by the Board of Trustees may be removed by the Board of Trustees whenever in the Board of Trustees' judgment the best interests of the Corporation would be served thereby, but such removal shall be without prejudice to the contract right, if any, of the person so removed.

#### 7.0.4 Vacancies

A vacancy in any office because of death, resignation, removal, disqualification or otherwise, may be filled by the Board of Trustees for the unexpired portion of the term.

#### 7.0.5 – The President

The President shall preside at all of the meetings of the Board of Trustees and all general membership meetings. The President shall be the administrating officer of the corporation and shall have such other powers and duties as may be assigned to him/her by the Board of Trustees, provided they are not inconsistent with these By-Laws.

#### 7.0.6 – The Vice-President

The Vice-President shall, in the absence of the President, have all the powers normally vested in the President.

#### 7.0.7 – The Secretary

The Secretary shall be responsible for the minutes of all meetings of the Board of Trustees and all general membership meetings and shall perform all other duties that may be assigned by the Board of Trustees or the President and that are not inconsistent with these By-Laws.

#### 7.0.8 – The Treasurer

The Treasurer shall hold the funds of the corporation, shall disburse funds as ordered by the Board of Trustees, and shall perform all other duties that may be assigned by the Board of Trustees that are not inconsistent with these By-Laws.

#### 7.0.9 – Resignation of Officers

Any officer may resign at any time by delivering a written resignation to any principal officer. The acceptance of such a resignation shall not be necessary to make it effective.

## **ARTICLE VIII – COMMITTEES**

### **8.0.1 – Executive Committee**

A – The Executive Committee shall be comprised of all of the principal officers of the Corporation. Between meetings of the Board of Trustees, the Executive Committee shall have the power of and exercise the authority of the Board of Trustees in the management of the Corporation, except as to the election or removal of Officers or Trustees of the Corporation, the amendment or repeal of these By-Laws or any other matters of concern which the Board of Trustees are required by law, the Articles of Incorporation or these By-Laws to act upon.

The Executive Committee shall advise the Board of Trustees on all significant matters pertaining to the affairs of the Corporations and shall have and may exercise such specific power and perform such specific duties as prescribed by these By-Laws or as the Board of Trustees shall from time to time prescribe or direct by resolution. The Executive Committee may act by a majority of its members at a meeting or by a writing or writings signed by all of its members. The Executive Committee may request ratification of its acts by the Board of Trustees at any regular, special or annual meeting of the Board of Trustees.

B – Meetings: The Executive Committee must meet in the months the Board of Trustees does not meet. The President or Secretary shall give reasonable notice of the time and place of the meetings. Three (3) of the voting members of the Executive Committee must be present to constitute a quorum.

### **8.0.2 – Other Committees**

Other committees may be appointed by the President with the concurrence of the Board of Trustees as may be deemed necessary or desirable for the proper administration and operation of the Corporation. Each such committee shall serve at the pleasure of the Board of Trustees and shall be subject to the control and direction of the Board of Trustees. All actions by any such committee shall be subject to revision or alteration by the Board of Trustees provided that no rights of third persons shall be adversely affected by such revision or alteration. Any action or authorization of an act by any such committee within the authority delegated to it by the resolution establishing it shall be effective for all purposes as the act or authorization of the Board of Trustees. Any such committee may act by a majority of its members present at a meeting or by writing or writings signed by all of its members.

The following shall be standing committees of the Board of Trustees — Artistic, Building, Finance, Long Range Planning, Marketing, and Traverse City Children’s Theatre.

## **ARTICLE IX – ANNUAL MEETING**

### **9.0.1 – Annual Meeting and Notice**

A – The annual meeting of the corporation and its membership shall be held in June.

B – Announcement of the time, place, and purpose of the annual meeting shall be published in the Traverse City Record-Eagle not less than ten (10) days prior to the annual meeting.

C – The purpose of the annual meeting shall be (1) for the Board of Trustees to appoint individuals to the Board of Trustees as needed and for the membership to elect individuals to the Board of Trustees; (2), to present a reporting of the annual finances, hear committee reports; and (3) to transact such other business as may be indicated in the notice of meeting or properly introduced from the floor.

D – Not less than sixty (60) days before the annual meeting the President shall appoint a nominating committee of not fewer than three (3) members who shall submit to the general membership not less than ten (10) days prior to the annual meeting, a slate of nominees for the Board of Trustees, numbering not less than the number of vacancies to be filled. Nonetheless, the membership may consider nominations from the floor of the annual meeting.

## **ARTICLE X – AMENDMENTS TO THE BY-LAWS**

These By-Laws may be altered, amended or repealed, in whole or in part, or new By-Laws may be adopted by the Board of Trustees of the Corporation, provided, however, that notice of such alteration, amendment, repeal or adoption of new By-Laws be contained in the notice of such meeting of the Board of Trustees. All such amendments must be ratified by an affirmative vote of at least two-thirds (2/3) of the membership at a duly noticed regular or special meeting of the Board of Trustees.

### 10.0.1 – Method of Amendment, Alteration, or Repeal

[Proposed changes to these by-laws by amendment, alteration or repeal may be made by any voting member in good standing and submitted in writing to the Board of Trustees. Proposed changes may also be made by an ad hoc By-Law Review Committee as established from time to time by the Board of Trustees and subsequently submitted to the Board of Trustees.]

### 10.0.2 – Adoption of Amendment, Alteration, or Repeal

Upon submission of proposed changes, these By-laws may be amended by a majority vote of the Board of Trustees, subject to a ratification vote at a regular annual or special meeting of the Old Town Playhouse membership. Ratification requires a two-thirds (2/3) majority vote of the paid, voting members present. Changes to the By-laws are considered operative upon adoption.

### 10.0.3 – Notification

Notice of the proposed changes to the By-laws shall be made available to the membership at least thirty (30) days prior to the meeting where a vote is called. Copies of the By-laws and the proposed changes will be posted publicly for the membership's consideration for approval and adoption, and copies will be available for paid members at the business office.

**ARTICLE XI – DISSOLUTION OF THE CORPORATION**

11.0.1 – Dissolution

In the event of the dissolution of the Old Town Playhouse, Article 2 Section H of the Articles of Incorporation provide that all its assets shall be distributed exclusively to the charitable, religious, scientific or educational organizations that qualify as tax exempt under Section 501(c)(3) of the Internal Revenue Code.

**ARTICLE XII – INDEMNIFICATION OF OFFICERS AND TRUSTEES [CHECK WITH FEE ATTY]**

12.0.1 – Power to Indemnify in Actions, Suits or Proceedings

The Corporation shall indemnify a person who was or is a party or is threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative (other than an action by or in the right of the Corporation) by reason of the fact that such person is or was a director or officer of the Corporation, against expenses (including reasonable attorneys fees), judgments, fines and amounts paid in settlement actually and reasonably incurred by such person in connection with such action, suit or proceeding to the extent provided by the provisions of the Michigan Non-Profit Corporation Act, as such act shall be amended from time to time.

12.0.2 – Insurance

The Corporation may purchase and maintain insurance on behalf of any person who is or was a trustee or officer of the Corporation, against any liability asserted against such person and incurred by such person in any such capacity, or arising out of such person’s status as such, whether or not the Corporation would have the power or the obligation to indemnify the trustee or officer against such liability under the provisions of this Article XII.

**NOTES:**

Approved 6-18-81  
Amended 6-11-84, 6-11-86, 6-10-87, 6-9-92, 6-8-93, 6-17-98, 6-27-00,  
6-19-01, 4-10-09

Revisions Submitted for Initial Review: 02-12-2003 by Phil Murphy  
Revisions Submitted for additional review 03-11-2003 by Phil Murphy  
Additional Amendments XIII and XIV Submitted for review 03-24-2003 by Phil Murphy

Revisions Adopted 06-24-2003  
Amended 6-21-2005; 1-16-2007

Substantial Revisions to By-Laws Submitted for Initial Review: 04-19-2009 by By-Law Committee  
Jessica Rickard - Trustee; Larry Hains - Member Representative; Phil Murphy - Executive Director

**Respectfully Re-Submitted for ratification June 2009**



**Philip D. Murphy**  
**Executive Director, Old Town Playhouse 05-01-2009**