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**BYLAWS  
OF  
THE FRIENDS OF THE GARDENS AT  
THE UNIVERSITY OF TENNESSEE, INC.**

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These ByLaws shall regulate The Friends of the Gardens at The University of Tennessee, Inc., subject to the provisions of the Corporation's Charter and any applicable provisions of the Tennessee Non-Profit Corporation Act, Section 48-51-101 et. seq., Tenn. Code Ann.

**I. Name.**

The name of this organization shall be The Friends of the Gardens at The University of Tennessee, Inc., a non-profit corporation incorporated under the laws of the State of Tennessee (hereinafter referred to as "Friends of the Gardens").

**II. Objectives.**

A. Purpose. The purpose of the Friends of the Gardens shall be to assist and support the research, extension, educational and public service activities of the trial gardens at the University of Tennessee -- Knoxville. Assistance and support shall include but not be limited to developmental fundraising, maintenance and promotion of the gardens as a community resource.

B. Relationship to the University. The trial gardens are a cooperative venture of the University of Tennessee, Department of Ornamental Horticulture and Landscape Design and the Knoxville Agricultural Experiment Station. The Department of Ornamental Horticulture and Landscape Design and the Knoxville Agricultural Experiment Station or their assigned agents have full authority for the management and supervision of the gardens and the research, education and public service programs conducted thereon. The Friends of the Gardens have no formal relationship with the Department of Ornamental Horticulture and Landscaping Design or the Knoxville Agricultural Experiment Station.

**III. No Private Inurement.**

No part of the net earnings of the Friends of the Gardens shall inure directly or indirectly to the benefit of or be distributable to its members or officers, but the Friends of the Gardens 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 Section II hereof. It is intended that this organization shall have and continue to have the status of an organization which is exempt from federal income taxation under Section 501 (a) of the Internal Revenue Code of 1986, as from time to time amended (hereinafter the "Code"), as an organization

described in Section 501 (c)(3) thereof and these ByLaws shall be construed accordingly and all powers and activities hereunder shall be limited accordingly. The Friends of the Gardens shall not carry on propaganda or otherwise attempt to influence legislation to such extent as would result in loss of its exemption from federal income tax under Section 501 (c)(3) of the Code. Nor shall any activity of the Friends of the Gardens consist of participating in or intervening in (including the publishing or distributing of statements) any political campaign on behalf of or in opposition to any candidate for public office.

#### **IV. Membership.**

A. Eligibility. All individuals and organizations interested in supporting horticultural research, educational and public service activities in accordance with the purposes of the Friends of the Gardens are eligible for membership.

B. Categories. Membership shall be available in those categories as determined from time to time by the Board of Directors.

C. Dues and Benefits. The Board of Directors, when determining the categories of membership shall develop a corresponding schedule of dues and benefits. Defining the fiscal year as beginning January 1 and ending December 31, dues shall be payable the first month of the fiscal year. Members whose dues are six (6) months in arrears shall be dropped from the role.

D. Quorum Requirements. Ten percent (10%) of the votes entitled to be cast on a matter must be represented at a meeting of the members to constitute a quorum on that matter, unless Tenn. Code Ann. Title 47, Chapters 51-68, or the Charter of the Friends of the Gardens provide for a higher quorum. Should either the Code or the Charter provide for a higher quorum, that higher quorum shall be the number of votes which must be represented.

#### **V. Board of Directors.**

A. Establishment. The business of the Friends of the Gardens shall be managed by a Board of Directors. The members of the Board shall include the President, First Vice-President, Second Vice-President, Secretary, Treasurer, no more than ten (10) elected Directors and the immediate past President.

B. Advisors. The Department of Ornamental Horticulture and Landscape Design faculty members utilizing the trial gardens in their research, extension or teaching programs may serve in a liaison capacity to the Board of Directors.

C. Election and Term of Office. Directors shall be elected for a two (2) year term by a majority vote of the membership present at an annual or special membership meeting. Directors shall be elected by a stagger system whereby five two-year term directors are elected annually. Vacancies, should they occur, would be filled by appointment by the President as required to serve out the term of the vacant position. A director shall be eligible for reelection.

After two continuous terms of service a director will be ineligible for election as a director for a period of one (1) year.

D. Quorum. A quorum of the Board of Directors shall be fifty percent (50%) of the total number of current directors.

E. Resignation. A director may resign at any time. The resignation of a director may be tendered orally at any meeting of the Board of Directors or may be given, in writing, to the secretary of The Friends of the Gardens. The acceptance of a resignation shall not be necessary to make it effective.

F. Removal. A director may be removed without cause by the affirmative vote of two-thirds (2/3rds) of all the directors of The Friends of the Gardens, other than the director who is being voted on, at a special meeting of the Board of Directors called for that purpose.

G. General Powers and Qualifications. All corporate powers of The Friends of the Gardens shall be exercised by and under the authority of, and the affairs of The Friends of the Gardens shall be managed under the direction of, the Board of Directors. The Board of Directors shall be natural persons and shall be at least eighteen (18) years of age.

H. Presumption of Assent. A Director of The Friends of the Gardens who is present at a meeting of the Board of Directors at which action is taken on any corporate matter shall be presumed to have assented to the action taken unless he votes against such action or abstains from voting because of an assertive conflict of interest.

I. Indemnification. With respect to claims or liability arising out of services of Directors of The Friends of the Gardens, The Friends of the Gardens shall indemnify and advance expenses to each present and future Director (and his or her estate, heirs and personal representatives) to the fullest extent allowed by the laws of the State of Tennessee, both as now in effect and as hereafter adopted or amended.

J. Immunity. To the fullest extent allowed by the laws of the State of Tennessee, both as now in effect and as hereafter adopted or amended, each present and/or future Director (and his or her estate, heirs and personal representatives) shall be immune from suit arising from the conduct of the affairs of The Friends of the Gardens.

## VI. Officers.

A. Officers. The officers of the Friends of the Gardens shall consist of a President, First Vice-President, Second Vice-President, Secretary and Treasurer. Each officer will serve on the Board of Directors.

B. Election. The officers shall be elected annually by a majority vote of the membership present at the annual or special meeting of the membership.

C. Term of Office. The officers shall serve a term of one (1) year, beginning at the close of the meeting at which they were elected. Officers shall be eligible to succeed themselves for one subsequent term. An officer serving two consecutive terms shall be ineligible to serve in the same office for a period of one (1) year. A vacancy during the course of a term may be filled by the Board of Directors.

D. Duties. The officers shall perform the duties usual to the office and other such duties as the Board of Directors may determine.

E. Continuity of Leadership. At the expiration of the term or terms of the President, the First Vice-President shall be the nominee of choice to succeed the office of President.

F. Removal. Any officer may be removed from office at any time, with or without cause, on the affirmative vote of a majority of the Board of Directors whenever, in its judgment, the best interests of The Friends of the Gardens will be served thereby. Removal shall be without any prejudice to any contract rights of the person so removed, but election of an officer shall not in and of itself create contract rights.

G. Vacancies. Vacancies in an office, however occasioned, may be filled at any time by election of the Board of Directors for the unexpired terms of such offices.

H. Indemnification. With respect to claims or liability arising out of services of an officer The Friends of the Gardens, The Friends of the Gardens shall indemnify and advance expenses to each present and future officer (and his or her estate, heirs and personal representatives) to the fullest extent allowed by the laws of the State of Tennessee, both as now in effect and as hereafter adopted or amended.

## VII. Meetings.

A. Board of Directors. Regular meetings of the Board of Directors shall be held as required. The time and place of regular meetings shall be prescribed by the Board. Special meetings may be called by the President or acting President.

B. Membership. The Board of Directors shall establish the time and place for an annual membership meeting and such special membership meetings as may be required from time to time.

C. Notice. Special meetings of the Board of Directors may be announced by telephone. Such announcement shall provide a minimum of two (2) working days notification to the directors. Annual and special membership meetings shall be announced to all members in writing, at least two (2) weeks before the meeting.

D. Actions by Unanimous Written Consent. If and when the directors shall severally or collectively consent in writing to any action taken by The Friends of the Gardens either before or after the action is taken, such action shall be as valid as a corporate action as though it had

been authorized at a meeting of the Board of Directors and the written comments shall be filed with the minutes of the proceedings of the Board of Directors.

E. Telephone Meetings. Directors may participate in meetings of the Board of Directors by means of a conference telephone or similar communications equipment by which all persons participate and can hear each other at the same time, participation by such means shall constitute present in person at such meeting.

## VIII. Committees.

A. General. The President shall propose, with the Board of Directors' approval, all standing and special committees. The President shall appoint the Chair to all approved committees, except the nominating committee. Each committee shall have at least one director among its members. The President shall be an Ex-officio member of all committees, except the nominating committee. All special committees, upon completion of the assigned task, shall be dissolved.

B. Nominating Committee. The nominating committee shall have three members. The President shall appoint two directors. The third member shall be the immediate past President, who will serve as Chair of this committee. The nominating committee shall prepare and present the slate of nominees for officers and directors in accordance with Article IV and V and with the Standing Rules. Notice of the nominated slate shall accompany the notice of the membership meeting.

## IX. Amendments to the ByLaws.

These ByLaws may be amended at any meeting of the Board of Directors by a vote of two-thirds of the members present and voting. The subject matter of the proposed amendments shall be included with a notice of the meeting.

## X. Dissolution.

The Friends of the Gardens may be dissolved and liquidated by the affirmative vote of two-thirds of the members present and voting. Upon the dissolution of the Friends of the Gardens, after paying or making provision for the payment of all liabilities of the Friends of the Gardens, assets shall be distributed to the Department of Ornamental Horticulture and Landscape Design, University of Tennessee -- Knoxville, provided that such distribution is in accordance with the provisions of Section 501 (c)(3). Otherwise the assets shall be distributed exclusively for the authorized purposes of the Friends of the Gardens in accordance with the provisions of Section 501 (c)(3) of the Code and its regulations as they now exist or as they may hereafter be amended. None of the funds shall inure to the benefit of any member or the Board of Directors.

## XI. Principal Office.

The principal office of The Friends of the Gardens shall be 2021 Plaza Tower, 800 South Gay Street, Knoxville, Tennessee 37929.

## **XII. Records and Reports.**

A. The Friends of the Gardens' Records. The Friends of the Gardens shall keep as permanent records minutes of all meetings of its Board of Directors, a record of all actions taken by the Board of Directors without a meeting, and appropriate accounting records.

B. Records at Principal Office. The Friends of the Gardens shall keep at all times copies of the following records at its principal office:

1. The Charter, Restated Charter and all Amendments thereto;
2. ByLaws and all Amendments thereto;
3. List of the names, businesses and current home addresses of all current directors and officers; and
4. Most recent Annual Report delivered to the Tennessee Secretary of State.

C. Annual Financial Statements. The Friends of the Gardens shall prepare annual financial statements and include a balance sheet as of the end of the fiscal year, and income statements for that year and such other information necessary to comply with the requirements of the applicable provisions of the Tennessee Non-Profit Corporation Act and to maintain Section 501(c)(3) organization status.

## **XIII. Fiscal Year.**

The fiscal year of The Friends of the Gardens shall be the period selected by the Board of Directors as the taxable year of The Friends of the Gardens for federal income tax purposes.

## **XIV. Seal.**

The corporation shall have no seal.

## **XV. Miscellaneous Provisions.**

A. Negotiable Instruments. All checks, drafts, notes, or other obligations of The Friends of the Gardens shall be signed by officers of The Friends of the Gardens or by such other persons as may be authorized by the Board of Directors.

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B. Deposits. The money of The Friends of the Gardens may be deposited in the name of The Friends of the Gardens in such banks or financial institutions as the Board of Directors shall designate from time to time and shall be drawn out by check signed by officers or persons designated by resolution adopted by the Board of Directors.

Benét S. Theiss

Benét S. Theiss, Incorporator