

## **Bylaws**

### **Nelson A. Rockefeller Empire State Plaza Performing Arts Center Corporation**

#### Article I – Description of the corporation

This corporation, created by Chapter 688 of the New York State laws of 1979, is a public benefit corporation, as defined by section 66 of the N. Y. S.' General Construction Law.

#### Article II – Purposes of the corporation

The purposes of the Corporation are to manage the performing Arts Center, also referred to as “the Egg”, in the Nelson A. Rockefeller Empire State Plaza and to provide and develop programs for civic, governmental, performing arts and other cultural and public events for the benefit of the citizens of the State.

#### Article III – Directors

section 1. Composition – The Corporation shall be managed by its Board of Directors, comprised of a Chairman and seventeen (17) Directors.

section 2. Compensation – Directors shall not be entitled to compensation for their services, but shall be entitled to reimbursements for their actual and necessary expenses incurred in the performance of their official duties.

section 3. Powers and Duties – The Directors shall have general power to control and manage the affairs and property of the Corporation, shall have full power, by majority vote, to adopt rules and regulations governing their actions, and shall have full authority with respect to the disbursement and payment of the moneys received by the Corporation from time to time; provided, however, that the Directors shall not permit any part of the net revenues or capital of the corporation to inure to the benefit of any private individual.

#### Article IV – Officers

section 1. Number – The officers of the Corporation shall be a Chairman, a Secretary, a Treasurer and such assistant officers as the Board may deem appropriate.

section 2. Staff – The Corporation shall employ an Executive Director and such other staff as it deems necessary. The Executive Director shall attend all Corporation meetings and shall have the right to speak at such meetings, but shall have no vote. The Executive Director shall be the chief executive officer of the performing Arts Center and shall have general supervision in the administration and operation of its projects and facilities.

section 3. Appointment – All officers other than the Chairman shall be appointed by the Directors.

section 4. Chairman: Powers and Duties – The Chairman shall preside at all meetings of the Board. He shall generally manage and supervise the affairs of the corporation; shall keep the Board fully informed, shall freely consult with them concerning the activities of the corporation; shall perform all duties incident to the office of Chairman, subject however, to the control of the Board and such other duties as shall from time to time be assigned to him by the Board.

section 5. Secretary: Powers and Duties – The Secretary shall act as secretary of all meetings of the Board, and shall keep the minutes of all such meetings in the Corporation's books maintained for that purpose; shall attend to the giving and serving of all notices of the Corporation; and shall perform all duties incident to the office of the Secretary, subject, however, to the control of the Board and such other duties as shall from time to time be assigned to him by the Board.

section 6. Treasurer: Powers and Duties – The Treasurer shall have the custody of all funds and securities of the corporation which may come into his hands; shall keep or cause to be kept complete and accurate accounts of receipts and disbursements of the corporation; and shall cause to be deposited all moneys and other valuable effects of the corporation in such banks or depositories as the Board may designate. The Treasurer shall present to the Board a report of the financial condition of the Corporation at the regular meetings of the Board. Whenever required by the Board, the Treasurer shall render a statement of the Corporation's books and accounts to Directors of the corporation, shall perform all duties incident to the office of Treasurer, subject however, to the control of the Board, and such other duties as shall from time to time be assigned to him by the Board. The Treasurer shall, if required by the Board, give such security for the faithful performance of this duties as the Board may require.

#### Article V – Executive Committee

section 1. Composition – There shall be an Executive Committee consisting of the Chairman, Vice-Chairman and two or more Directors appointed by the Chairman.

section 2. Powers – The Executive Committee shall have general supervision of the affairs of the corporation, shall act on behalf of the Corporation between meetings of the Board, make recommendations to the Board, and perform such duties as shall from time to time be assigned to it by the Board and as are specified by these By-Laws. The Executive Committee shall not, however, act in a manner contrary to a Resolution duly adopted by the Board.

#### Article VI – Special Committees

section 1. Appointment – Special Committees shall be appointed by the Chairman as the Corporation or the Executive Committee shall from time to time deem necessary to carry out the work of the Corporation.

section 2. Chairman – The Chairman shall be an ex-officio member of all special committees.

#### Article VII – Meetings

section 1. Time – The Directors shall meet not less than four times per year, at times to be determined by the Chairman.

section 2. Notices of Meetings – Notice of the time and place of such meetings shall be given by the Secretary by mailing a copy thereof or delivering the same to each Director not less than ten days before such meeting.

section 3. Special Meetings – Special meetings shall be called by the Chairman or any three Directors of the Corporation upon written notice to the Chairman.

section 4. Notice of Special Meetings – Notice of the time, place and purpose of each special meeting shall be given by the Secretary by mailing, telegraphing, cabling, telephoning or delivering the same to each Director (to be received) at least twenty-four hours before the meeting.

section 5. Quorum, Adjournments and Meetings – At all meetings a majority of the Directors shall constitute a quorum for the transaction of 'business. In the absence of a quorum, a majority of the Directors so present may adjourn the meeting from time to time until a quorum is present.

section 6. Voting – At any meeting of the Board, each Director shall be entitled to one vote.

section 7. Action by Unanimous Consent – Any action, required or permitted to be taken by the Directors or any committee of them may be taken without a meeting if, all the Directors or committee consent in writing to the adoption of a resolution authorizing the action. The resolution and the written consents thereto by the Directors or committee of them shall be filed with minutes of the Board. This provision shall not apply to any action that would alter the design or structure of the Performing Arts Center or would dispose of any fixture, installation or equipment valued in excess of five thousand dollars, which actions must be approved by a majority of the Board, at a meeting and also by the state Director of the Budget.

section 8. Voting by Representatives – At all meetings any Director may designate a representatives to act in his or her place and stead and such representatives may vote and constitute a quorum for the transaction of business. Representatives shall be designated in writing or by telephone to the chairman of the Corporation or the chairman of the meeting and such designations shall be announced at the commencement of the meeting.

#### Article VIII – Records and Reports

section 1. Minutes – A copy of the proposed minutes of all Corporation and Committee meetings shall be provided to each Director of the corporation no later than fourteen (14) days following the meeting and in any event prior to the meeting at which they are to be presented for approval.

section 2. Books – There shall be kept at the offices of the Secretary the minute book, which shall contain a copy of the enabling Act, a copy of these By- Laws, and all minutes of the meetings of the Board.

section 3. Reports and Requests – The corporation shall make a report of its progress to the Governor and legislative leadership on an annual basis.

section 3a. Annual Report – For the purposes of furnishing the state with systematic information regarding its status and activities, the corporation shall submit to the Governor, the Chairman of the Senate Finance committee, the Chairman of the Assembly Ways and Means committee and the State Comptroller, within ninety days after the end of the corporation's fiscal year, a complete and detailed report setting forth: (1) its operations and accomplishments; (2) its receipts and disbursements during such fiscal year, in accordance with categories or classifications established for its own operating and capital outlay purposes; and (3) its assets and liabilities at the end of its fiscal year, including the status of reserve, special or other fund and including the receipts and payments of these funds.

section 3b. Budget Request – The corporation shall annually submit a proposed budget to the state Director of the Budget in September at the same time as budget requests are required to be submitted by state departments. The proposed budget shall contain an operating budget, an equipment budget and an estimate of revenues.

section 3c. Request to the Office of General services – The corporation shall also submit annually a request to the Office of General Services for maintenance needs to enable the inclusion of such request as an integral part of that Office's state budget request submitted to the Director of the Budget.

#### Article IX – Contracts, Checks, Bank Accounts

The Board is authorized to select such banks or depositories as it shall deem proper for the funds of the corporation. The Board shall determine who shall be authorized from time to time on the Corporation's behalf to sign checks, drafts or other evidences of indebtedness, to enter into contracts, or to execute and deliver other documents and instruments.

#### Article X – Freedom of Information

Meetings shall be held consistent with the provisions of the Open Meetings Law, set forth in Article 7 of the New York Public Officers Law. Executive sessions may be conducted as described in such Article 7.

Article XI – Non-Discrimination In all activities of the Corporation there shall be no discrimination on the basis of age, sex, race, creed, color, national origin, disability or marital status.

#### Article XII – Indemnification

The Corporation may, to the fullest extent now or hereafter permitted by law, indemnify any person made, or threatened to be made, a party to any action, suitor proceeding by reason of the fact that he (or the person of whom he is the legal or personal representative or heir or legatee) is or was a Director, officer, employee or other agent of the Corporation, or of any other organization served by him in any capacity at the request of the Corporation, against judgments, fines, amounts paid in settlement and reasonable expenses, including attorney's fees.

#### Article XIII – Corporate Seal

The seal of the Corporation shall be circular in form and shall bear the name of the Corporation and words and figures showing that it was established by law of the state of New York enacted in 1979. The Secretary shall have possession of the seal.

#### Article XIV – Action by Conference Telephone

Anyone or more Directors may participate in a meeting of such Board or committee by means of conference telephone or similar communications equipment allowing all persons participating in the meeting to hear each other at the same time. Participation by such means shall constitute presence in person at a meeting and shall be effective for voting.

#### Article XV – Waiver of Notice

Whenever under the provisions of these By-Laws the Directors are authorized to hold any meeting after notice or after the lapse of any prescribed period of time, such meetings may be held without notice and without such lapse of time upon a written waiver of such notice signed by every Director.

#### Article XVI – Terminology

When used in these By-Laws the masculine gender shall be deemed to include the feminine gender.

#### Article XVII – Amendments

These By-Laws or any of them may be altered, amended or repealed at any meeting of the Board of Directors by a vote of two-thirds of the entire Board of Directors then serving in office.