

**AMENDED AND RESTATED**

**BYLAWS**

**OF**

**NEWBURGH ROWING CLUB, INC.**  
**Registered DBA Newburgh Waterways Center**

**ARTICLE I**

**NAME, PURPOSES, AND OFFICES**

Section 1.1 Name. The name of the nonprofit corporation is Newburgh Rowing Club, Inc. (the “Corporation”).

Section 1.2 Purposes and Mission. The Corporation is a nonprofit corporation organized under the laws of the State of New York and operates exclusively for the charitable and education purposes related to the promotion, protection and support of local rowing and crew programs.

The purpose of the Corporation is (1) to encourage and support the development of rowing and crewing programs in the City of Newburgh, the Town of New Windsor, the Town of Newburgh and the surrounding communities; (2) to organize and support rowing and crewing programs which allow local crew teams from Newburgh to row against other teams and organizations; (3) to educate and support youth and adults concerning the fundamentals of rowing and other non-motorized water craft technique, etiquette, and sportsmanship; (4) to provide and support for the coaching needs and equipment needs for youth and adult rowers of the Newburgh Rowing Club; (5) to perform all of the general powers enumerated in Section 202 of the Not-for-Profit Corporation Law (“NPCL”); and (6) to solicit charitable contribution to carry out the aforesaid purposes.

The Corporation shall operate in such a manner so that the contributions made to it by individuals or other corporations shall qualify as deductions for contributions to charitable organizations pursuant to Section 501(c)(3) of the Internal Revenue Code.

Section 1.3 Registered Office and Registered Agent. The address of the registered office of the Corporation in New York shall be registered with the State of New York, Department of State, and shall be at such location(s) as the Board of Directors (the “Board”) may from time to time determine. The agent of the Corporation registered with the State of New York shall have a business address identical with the registered office of the Corporation. The

Corporation may also have offices at such other places within or outside the State of New York as the Board may from time to time designate and the business of the Corporation may require.

## ARTICLE II

### MEMBERSHIP

The Corporation shall have no members.

## ARTICLE III

### BOARD OF DIRECTORS

Section 3.1 Power of the Board of Directors. The Board shall be responsible for managing the business, property, affairs, interests, and activities of the Corporation, subject to applicable law and in accordance with the purposes and limitations set forth in the Certificate of Incorporation of the Newburgh Rowing Club, Inc. (the “Certificate of Incorporation”), as amended and/or restated, and these bylaws (the “Bylaws”).

Section 3.2 Qualifications of Directors. Each director shall be at least eighteen years old. A director need not be a resident of New York State.

Section 3.3 Number of Directors. The Board shall consist of not less than three directors and not more than fifteen (15) directors. Within these specified limits, the number of directors at any time serving on the Board may be increased or decreased by action of the Board; *provided* that no decrease shall shorten the term of any incumbent director.

Section 3.4 Election and Term of Directors. Election of directors shall be held each year at a meeting called for such purpose. Each director shall be elected for a term of one (1) year and shall hold office until his or her successor is elected and qualified; *provided* that any director elected to fill an unexpired term shall be elected and hold office in accordance with the provisions of Section 3.5 of these Bylaws.

Section 3.5 Vacancies and Newly-Created Directorships. Vacancies occurring in the Board for any reason and newly-created directorships resulting from an increase in the authorized number of directors shall be filled by the affirmative vote of a majority of the directors then in office though less than a quorum of the Board. A director elected or appointed to fill a vacancy in an unexpired term shall hold office until the next election of directors at the annual meeting or for a term to be determined by the Board which ends at an annual meeting.

Section 3.6 Resignation. Any director may resign at any time by delivering notice to the President or the Secretary in writing or by electronic means. The resignation shall take effect when such notice is so delivered, unless the notice specifies a later effective date, and the acceptance of such resignation shall not be necessary to make it effective.

Section 3.7 Removal. Any one or more of the directors may be removed for cause at any time by the affirmative vote of a majority of the directors present at a regular meeting or special meetings of the Board called for that purpose; *provided* that there is a quorum present at such meeting and that notice of the proposed action shall have been transmitted to all directors at least one week before said meeting. The Board may decide in its discretion what constitutes cause for removal.

Section 3.9 Annual Meetings. An annual meeting of the Board shall be held each year in January, on a date and at a time and place as shall be determined by the Board, for the election of directors and officers, for the annual report of the Treasurer described in Section 5.8(g) of these Bylaws, and for the transaction of such other business as may properly come before the meeting. Unless otherwise determined by the President and/or the Board, the order of business for the annual meeting shall be: (i) calling of the meeting to order; (ii) proof of notice of meeting or filing of waiver; (iii) approval of minutes of last meeting; (iv) report of officers; (v) reports of committees; (vi) election of directors; and (vii) miscellaneous business.

Section 3.10 Regular Meetings. Regular meetings of the Board shall be held every quarter, on such dates and at such times and places as may be fixed by the Board.

Section 3.11 Special Meetings. Special meetings of the Board may be held at any time upon the call of the President and/or the Board or by any director upon written demand of at least one-fifth of the Board, at the time and place fixed by the person or persons calling the special meeting.

Section 3.12 Notice of Meetings. Notice need not be given of regular meetings of the Board if such meetings are fixed by the Board. Notice shall be given of the annual meeting of the Board, each regular meeting not fixed by the Board, and each special meeting of the Board. Notice shall be either: (1) sent electronically to each director, at their e-mail address or facsimile number as it appears in the records of the Corporation, at least five (5) calendar days before the day of the meeting; or (2) mailed to each director, postage prepaid, at their address as it appears in the records of the Corporation, at least seven (7) calendar days before the day of the meeting. Notice shall include the date, time, and place of the meeting, and, for each annual and special meeting, shall be accompanied by a written agenda setting forth all matters upon which action is proposed to be taken. For discussion of matters requiring prompt action, notice of special meetings may be given to each director in person or by telephone, e-mail, or facsimile, no less than forty-eight (48) hours before the meeting is to be held, unless the meeting must be held within forty-eight hours. Notice of any adjourned meeting shall be given to any director who was not present at the time of the adjournment, and to the other directors, if the time and place of the adjourned meeting were not announced at the meeting. Notice of a meeting need not be given to any director who submits a waiver of notice, in writing or via e-mail or facsimile, to the Secretary before or after the meeting, or who attends the meeting without protesting, prior thereto or at its commencement, the lack of notice to such director.

Section 3.13 Quorum. Unless a greater proportion is required by law or by the Certificate of Incorporation or these Bylaws, at each meeting of the Board, a majority of the entire Board shall constitute a quorum for the transaction of business. If a quorum is not present at any meeting of the Board, a majority of those directors present may adjourn the meeting until such a quorum is present. Directors who are present at a meeting but not present at the time of a vote due to a conflict of interest or related party transaction shall be determined to be present at the time of the vote for purposes of determining if a quorum is present at such time.

Section 3.14 Participation in Meetings via Technology. Any one or more directors may participate in any meeting of the Board or any committee thereof by means of a conference telephone, videoconference, or similar communications equipment allowing all persons participating in the meeting to hear and speak to each other simultaneously. Participation by such means shall constitute presence in person at a meeting for all purposes, including quorum and voting.

Section 3.15 Action at a Meeting. Directors may not vote by proxy. Except as otherwise provided by law, the Certificate of Incorporation, or these Bylaws, the affirmative vote of a majority of the directors present at a meeting of the Board, if a quorum is present at the time of the vote, shall be the act of the Board; *provided, however*, that authorization of the following shall require the affirmative vote of at least two-thirds of the Board:

- I. A sale, lease, exchange, or other disposition of all, or substantially all, of the assets of the Corporation;
- II. A purchase of real property if such property would, upon purchase, constitute all, or substantially all, of the assets of the Corporation;
- III. A plan of merger, consolidation, or dissolution;
- IV. Revocation of a plan of voluntary dissolution; and
- V. Approval of an employee serving as Chair of the Board.

Section 3.16 Action without a Meeting. Any action required or permitted to be taken by the Board or any committee of the Board may be taken without a meeting if all members of the Board or such committee consent to the adoption of a resolution authorizing the action. Such consent shall set forth the action to be taken, must be executed by the director by signing such consent or causing her or his signature to be affixed to such consent by any reasonable means including, but not limited to, facsimile signature. If electronic, the transmission of the consent must be sent by electronic mail or other electronic means and set forth, or be submitted with, information from which it can reasonably be determined that the transmission was authorized by the director. The resolution and consents thereto shall be filed with the minutes of the proceedings of the Board or committee.

Section 3.17 Organization of Meetings. At each meeting of the Board, the President, or, in the President's absence, the Vice President or a person chosen by the directors present, shall preside. The Secretary shall act as secretary of each meeting of the Board, shall record the minutes of each meeting and, upon their adoption by the Board, shall retain such minutes with the permanent records of the Corporation. In the absence of the Secretary, the presiding officer of the meeting shall appoint a secretary of the meeting.

Section 3.18 Compensation of Directors. The Corporation shall not pay any compensation to directors for their services as directors of the Corporation, except that directors may be reimbursed for reasonable and necessary expenses incurred in the performance of their duties to the Corporation. Subject to the Corporation's conflict of interest policy and applicable law, directors may receive reasonable compensation for services performed in other capacities for or on behalf of the Corporation pursuant to authorization by the Board.

## ARTICLE IV

### COMMITTEES

Section 4.1 Committees of the Board. The Board may create committees of the Board, each consisting of three or more directors. The Board shall appoint the members of any such committees of the Board, except that in the case of any executive committee or similar committee, however denominated, the appointment shall be made by a majority of the entire Board.

I. Each committee of the Board shall serve at the pleasure of the Board and shall have all the authority of the Board to the extent provided in the resolution or charter establishing the committee, except that no committee of any kind shall have authority as to the following matters:

- A. The filing of vacancies in the Board or in any committee;
- B. The fixing of compensation of the directors for serving on the Board or on any committee;
- C. The amendment or repeal of the Bylaws or the adoption of new Bylaws;
- D. The approval of amendments to the Certificate of Incorporation;
- E. The amendment or repeal of any resolution of the Board which by its terms shall not be so amendable or repealable;

- F. The authorization of a sale, lease, exchange, or other disposition of all, or substantially all, of the Corporation;
- G. The approval of any plan of merger or dissolution of the Corporation; or
- H. The election or removal of officers or directors.

- II. Sections 3.9 through 3.17 of these Bylaws, which govern meetings, notice, quorum, participating in meetings via technology, action at a meeting, and action without a meeting, shall apply to committees of the Board and their members as well, except that committees of the Board shall not be required to hold annual meetings.
- III. The Board may designate one or more directors as alternate members of any committee of the Board, who may replace any absent committee member at any meeting of such committee. Any vacancies occurring on a committee of the Board may be filled at any meeting of the Board.
- IV. Each committee of the Board shall keep regular minutes of its proceedings and report the same to the Board, and such minutes shall be retained with the permanent records of the Corporation.
- V. Each committee member shall serve at the pleasure of the Board. The designation of any committee of the Board and the delegation thereto of authority shall not alone relieve any director of their duty to the Corporation under Section 717 of the NPCL (duty of directors and officers).

Section 4.2 Committees of the Corporation. Committees, other than committees of the Board, shall be committees of the Corporation. At any meeting of the Board, the Board may create one or more committees of the Corporation and appoint persons to serve on such committees. Such committees shall be advisory only and may contain non-directors.

Section 4.3 Advisory Committee. From time to time, the Board may form an Advisory Committee which shall be made up of persons in the community and/or the rowing community who have an interest in the operations and welfare of the Corporation. The Advisory Committee shall appoint one (1) to three (3) persons who may attend the Board meetings in order to provide a report from the Advisory Committee. A member of the Board shall be assigned to a given committee to act as a liaison for the Committee between quarterly Board meetings. Members of the Advisory Committee shall have no voting powers in a Board meeting.

## ARTICLE V

### OFFICERS

Section 5.1 Officers. The officers of the Corporation may consist of a President, a Vice President, a Secretary, a Treasurer, and such other officers with such titles as the Board shall determine, each of whom shall be chosen by and shall serve at the pleasure of the Board.

Section 5.2 Election, Term of Office, and Qualifications. The officers of the Corporation shall be elected by the Board, from among the directors, at the annual meeting of the Board. Each officer shall hold office for a term of one year and until such officer's successor is elected. One person may hold and perform the duties of more than one office, except no person may serve as both President and Secretary or President and Treasurer. No employee of the Corporation shall serve as an officer of the Board or hold any other title with similar responsibilities, unless the Board approves such employee serving as an officer of the Board by a two-thirds vote of the Board and contemporaneously documents in writing the basis for the Board's approval; *provided, however,* that no such employee shall be considered an independent director for purposes of the NPCL. All officers shall be subject to the supervision and direction of the Board.

Section 5.3 Resignation. Any officer may resign at any time by delivering written notice to the President or the Secretary. The resignation shall take effect when such notice is so delivered, unless the notice specifies a later effective date, and the acceptance of such resignation shall not be necessary to make it effective.

Section 5.4 Removal. Any officer elected or appointed by the Board may be removed with or without cause by a majority of the Board. The Board may decide in its discretion what constitutes cause for removal.

Section 5.5 Vacancies. A vacancy in any office shall be filled until the next annual meeting at which the election of directors is in the regular order of business, and until such officer's successor is elected or appointed.

Section 5.6 Powers and Duties of President. The President shall preside at all meetings of the Board. The President shall have and exercise general charge and supervision of the affairs of the Corporation and shall perform such other duties as may be assigned by the Board, these Bylaws, or by law or incident to his office.

Section 5.7 Powers and Duties of Vice President. At the request of the President, or in the event of the President's absence or inability to act, a Vice President shall perform the duties and possess and exercise the powers of the President. If there is more than

one Vice President, the Board shall determine which of them shall perform the duties of the President under such circumstances. A Vice President shall have such other powers and perform such other duties as the President, or the Board may assign to the Vice President.

Section 5.8 Powers and Duties of Secretary. The Secretary shall:

- I. Record and keep minutes of all meetings of the Board and members;
- II. Ensure that all notices and reports are duly given or filed in accordance with these Bylaws or as otherwise required by law;
- III. Be custodian of the Corporation's records, other than financial; and
- IV. In general, perform all duties incident to the office of Secretary and such other duties as the President or the Board may assign to the Secretary.

Section 5.9 Powers and Duties of Treasurer. The Treasurer shall:

- I. Have charge and custody of, and be responsible for, all financial records, funds, and securities of the Corporation;
- II. Deposit or oversee the deposit of all funds in the name of the Corporation in such depositories as shall be designated by the Board;
- III. Receive or oversee the receipt of amounts due and payable to the Corporation from any source whatsoever, and, subject to the direction of the Board, authorize and oversee the authorization of the disbursement of funds of the Corporation;
- IV. Render a Statement of the condition of the finances of the Corporation whenever required by the Board;
- V. Ensure the preparation and filing of all legally required financial returns and reports, including, but not limited to, the Corporation's Form 990 (or rendition thereof) and state charitable solicitation registrations;
- VI. In general, perform all the duties incident to the office of Treasurer, and such other duties as the President or the Board may assign to the Treasurer; and
- VII. At the Annual meeting of the Board, render a report of the Corporation's accounts showing in appropriate detail:

- A. The assets and liabilities of the Corporation as of a fiscal year terminating not more than six months prior to the meeting;
- B. The principal changes in assets and liabilities during that fiscal year;
- C. The revenues or receipts of the Corporation, both unrestricted and restricted to particular purposes, during said fiscal year; and
- D. The expenses or disbursements of the Corporation, for both general and restricted purposes during said fiscal year.

Such report shall be filed with the minutes of the annual meeting and may consist of a verified or certified copy of any report by the Corporation to the Internal Revenue Service or the Attorney General of the State of New York which includes the information specified herein.

## ARTICLE VI

### FINANCIAL MATTERS AND RECORDS

Section 6.1 Fiscal Year. The fiscal year of the Corporation shall coincide with the calendar year.

Section 6.2 Execution of Instruments. The Board shall select the banks or depositories it deems proper for the funds of the Corporation. The Board shall determine who shall be authorized from time to time and in what manner on the Corporation's behalf to sign checks, drafts, or other orders for payment of money, to sign acceptances, notes, or other evidence of indebtedness, to enter into contracts, or to execute and deliver other documents and instruments.

Section 6.3 Books and Records. There shall be kept at the principal office of the Corporation, located in the County of Orange, correct and complete books and records of the accounts, activities, and transactions of the Corporation. These records shall include a current list of the directors and officers of the Corporation and their addresses, and a minute book, which shall contain a copy of the Certificate of Incorporation, a copy of these Bylaws, and all minutes of meetings of the Board and committees. Any of the books, records, and minutes of the Corporation may be kept in written form or in an electronic form capable of being converted into written form within a reasonable time.

Section 6.4 Prohibition Against Loans. The Corporation is prohibited from making any loan to any director or officer of the Corporation.

Section 6.5 Signing of Checks or Notes. Checks, notes, drafts, and demands for money in **excess of \$1,000.00** shall be signed by the President or Vice-President **and** the Treasurer.

## ARTICLE VII

### CONFLICT OF INTEREST

The Board shall adopt and oversee the implementation of, and compliance with, a conflict-of-interest policy as required by Section 715-a of the NPCL.

## ARTICLE VIII

### INDEMNIFICATION AND INSURANCE

Section 10.1 Indemnification. To the fullest extent permitted by law, the Corporation may indemnify any person made, or threatened to be made, a party to, or who is involved in (including as a witness), any action or proceeding by reason of the fact that they are or were a director, officer, employee, or agent of the Corporation, against judgments, fines, amounts paid in settlement and reasonable expenses, including attorneys' fees actually and necessarily incurred; *provided, however*, a person who has been successful, on the merits or otherwise, in the defense of a civil or criminal action or proceeding of the character described in Section 722 of the NPCL shall be entitled to indemnification as authorized in Section 723 of the NPCL. No indemnification may be made to or on behalf of any such person if: (a) their acts were committed in bad faith or were the result of their active and deliberate dishonesty and were material to such action or proceeding; or (b) they personally gained financial profit or other advantage to which they were not legally entitled in the transaction or matter in which indemnification is sought.

Section 10.2 Expenses. The Corporation may pay expenses as incurred by any person described in Section 10.1 of this Article in connection with any action, suit, proceeding or inquiry described in Section 10.1; *provided* that if these expenses are to be paid in advance of the final disposition (including appeals) of an action, suit, proceeding or inquiry, then the payment of expenses shall be made only upon delivery to the Corporation of an undertaking, by or on behalf of the person, to repay all amounts so advanced if it is ultimately determined that the person is not entitled to be indemnified under this Article or otherwise.

Section 10.3 Insurance. The Corporation shall purchase and maintain all insurance policies deemed to be in the best interest of the Corporation, including insurance to indemnify the Corporation for any obligation or expenses which it incurs as a result of its indemnification of directors, officers, employees, and agents pursuant to this Article, or to indemnify such persons in instances in which they may be indemnified pursuant to this Article.

## ARTICLE IX

### AMENDMENTS TO BYLAWS

Subject to the notice requirements of Section 3.10, these Bylaws may be adopted, amended, or repealed in whole or in part at any meeting of the Board, if a quorum is present at the time of the vote, by the affirmative vote of a majority of the entire Board.

Adopted on [DATE]

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Secretary