

*New England
Horseman's Benevolent and Protective Association, Inc.*

NEHBPA

**Constitution
and
Bylaws**

Revised February 27, 2016

**New England Horseman's Benevolent and Protective Association, Inc.
Post Office Box 388
Revere, Massachusetts 02151**

HBPA
NEW ENGLAND



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Revisions to the NEHBPA Constitution and Bylaws

April 04, 2007
October 10, 2014
January 22, 2015
July 01, 2015
February 27, 2016

ARTICLE I

NAME, DEFINITIONS, PURPOSE

Section 1: Name

This Association shall be known as the New England Horsemen's Benevolent And Protective Association, Inc. (NEHBPA), a non-profit corporation organized under the laws of the Commonwealth of Massachusetts.

Section 2: Definitions

Definitions as used in this Constitution and Bylaws:

- (A) **"Association"** – Shall mean the New England Horseman's Benevolent & Protective Association;
- (B) **"Board of Directors" and "Board"** - Shall mean the Board of Directors of the Association;
- (C) **"Board of Directors", "Board", and "Director(s)"** – Shall mean the elected representative or representatives of this Association;
- (D) **"In Good Standing"** – Shall mean that the member (a) continually remains in full compliance with the rules of racing adopted by the state or states where this Association's membership exists; and (b) is not in debt to the Association or the Association's affiliated accounts beyond sixty (60) days after a debt was first incurred.
- (E) **"National Association"** - Shall mean the National H.B.P.A., Inc., a non-profit corporation organized under the laws of the State of Maryland, as distinguished from this Association;
- (F) **"National Board of Directors" and "National Board"** – Shall mean the Board of Directors of the National Association;
- (G) **"Horse"** – Shall mean a Thoroughbred racehorse two (2) years of age or older (under rules of racing) which is not retired from racing and is not retired to breeding, either as a broodmare or stallion;
- (H) **"Horsemen"** – Shall mean Owners, Trainers, or Owner-Trainers of thoroughbred racehorses and who are licensed by governmental authorities to race thoroughbred horses in a New England state;
- (I) **"Qualifying Race"** – Shall mean a race on which pari-mutual wagering is authorized within the jurisdiction of this Association and which is held during a race meet of not less than thirty (30) racing days and during which meet not less than two percent (2%) of the

daily purse distribution is paid to the Association and any usual and customary starting fees for member benefit programs are withheld and paid to the Association.

- (J) **“Reasonable Notice”** – Shall mean a ten (10) day notice, which shall be sent by certified mail to the address of record kept by the Association. The term of the notice shall commence running on the day following the date of mailing of the notice as evidenced by the postmark thereon.
- (K) In this Constitution and Bylaws, where applicable, the singular shall be deemed to include the plural and the masculine shall be deemed to include the feminine and vice versa, as the context may require.

Section 3: Purpose

The Purpose of the Association is to:

- (A) Promote the sport of thoroughbred horse racing;
- (B) Institute or aid in any movement that will aid or protect the general welfare of the racing industry, the interests of horsemen and their employees, and of backstretch personnel.
- (C) Bring about a closer and more understanding relationship between horsemen, Racing Associations, Racing Commissions and the general public;
- (D) Take part and advise with Racing Associations, Racing Commissions, and other racing organizations in the establishment of proper rules and conditions that affect in any manner the interests of horsemen, their employees, and backstretch personnel.
- (E) Represent all horsemen in negotiations with thoroughbred racetrack operators and other necessary parties. Said representation shall advocate in the best interests and property rights of said horsemen on subjects including, but not limited to:
 - 1) Purse monies
 - 2) Purse contracts
 - 3) Sale of live racing signal
 - 4) Pony lead fees
 - 5) Television rights
 - 6) Inter-track wagering contracts and fees
 - 7) Off-track betting contracts and fees
 - 8) Simulcasting contracts and fees
 - 9) Phone and Internet betting contracts and fees
 - 10) Market Area contracts and fees
 - 11) Repair and improvement of all racetrack facilities
 - 12) All other matters of interest that may effect horsemen;
- (F) Perform any other act or do any other thing authorized by resolution of the Board of Directors that is not inconsistent with law or any provision of this Constitution and Bylaws to accomplish the purposes of this Association.

ARTICLE II

GOVERNMENT OF THE ASSOCIATION

Section 1: Organization

The Association shall consist of its members as defined in Article III hereof, the Board of Directors, the President and any other duly elected or appointed Officers of the Association.

Section 2: Constitution and Bylaws

This Constitution and Bylaws shall govern the Association.

Except as otherwise provided herein, all proceedings of the Association shall be conducted in accordance with Robert's Rules of Order (newly revised) or as otherwise directed by a vote of the Board of Directors of the Association.

Section 3: Powers of the Board

- (A) The Board shall be vested with and shall exercise all the powers of the Association and upon it is conferred the management, direction and control of the Association, except as otherwise provided herein.
- (B) The Board shall have the power to censure, suspend or expel any or all of the Officers, Directors, members, or employees of the Association for violation of any provision of this Constitution and Bylaws, for illegal, unethical or un-sportsman-like conduct, or for failure to remain in good standing in accordance with the rules of racing in effect where the members race, after a duly held hearing in accordance with the Constitution and Bylaws.
- (C) The Board shall designate the location of the Association's Headquarters.
- (D) The President, with the advice and consent of the Board of Directors, may appoint and employ, shall determine the method of appointment and length of employment of, and shall supervise the employment and conduct in office of the Executive Director, Secretary-Treasurer and General Counsel and such other employees as he deems necessary.

Section 4: Constitutional Amendments

The Board of Directors may by an affirmative vote of two-thirds (2/3rds) of its members, alter or repeal any Bylaw of the Association or make new Bylaws. All votes to alter or repeal any Bylaw or make new Bylaws shall be in writing. Ballots shall be mailed or given to each member of the Board and each member shall have twenty-one (21) days from receipt of such ballot to return his ballot to the principal office of the Association.

Section 5: Obligations of the Association

All notes, checks and other negotiable instruments of the Association shall be signed by the President and Secretary-Treasurer or Executive Director, at least two (2) signatures shall be required.

No notes, mortgage, or negotiable instruments other than checks may be signed by an Officer, employee or member without the prior written approval of the Board of Directors.

No Officer, either singly, or with others, shall have the power to make any note, check or other negotiable instrument binding upon the Association except as set forth in this Section 5.

Section 6: Discrimination Prohibited

The entire strength of the Association shall be given in support of any Officer or Director or any members acting officially for the Association who obviously has been discriminated against in the allocation of stalls or in any other respect, on account of his activities on behalf of the Association in accordance with this Constitution and Bylaws.

Section 7: Use of the Association Name

No one, whether a member of the Association or otherwise, shall be permitted to use the name and prestige of the Association for his personal benefit, commercially or otherwise, without the express permission of the Board. A publication shall only use the name of the Association if it is reviewed and approved by the Board.

Section 8: Official Publication

The Association hereby designates the Horsemen's Journal as the official publication of the Association. Each member has the responsibility for furnishing his correct permanent mailing address to the Secretary-Treasurer to ensure his receiving the Horsemen's Journal.

Section 9: Subsistence and Travel Expense Reimbursement

Any Officer, Director or employees of the Association and his or her spouse may be reimbursed for subsistence and travel expense while in travel status or on official business of the Association and the National Association, and attendance at Board and National Board meetings, except as otherwise restricted in this Constitution and Bylaws.

Section 10: Contract Negotiations

This Association shall represent horsemen and may bargain collectively with Racing Associations in an attempt to reach agreements with respect to purses and other conditions affecting racing. If, however, an impasse is reached and the Association is unable to arrive at an agreement with a Racing Association concerning purses or other conditions of racing, then the sole additional functions of the Association shall be limited to reporting to the horsemen the status of negotiations and the sampling or otherwise obtaining the sentiment of the horsemen with respect to a future course of action, including a possible withholding of entries, together with the reporting of same, to the National Association, to a Racing Association or the cognizant State Racing Commission.

Neither the Association nor any Officer or Director thereof shall, on behalf of the Association, participate in any withholding of racing entries, provided, however, that nothing herein shall be deemed to limit or control the conduct of any horseman, including Officers and Directors of this Association, from individually entering or not entering a horse at his discretion in any race meeting.

It shall be declared policy of the Association that the Association shall under no circumstances participate with or act jointly with any other organization or association relating to Thoroughbred racehorses with respect to purse negotiations or any other matter that could ultimately result in the withholding of racing entries.

Section 11: Contracts

No contract shall be made with a Racing Association for more than three (3) years.

Any contract shall be approved by a majority vote of the Board of Directors of this Association. No other approvals will be required.

Any contract that has been executed by a Racing Association and this Association shall be in writing and shall be executed by both parties thereto. It shall be made available to members of the Association and the National Association on request.

It shall be the declared policy of the Association that the Association and all its members shall abide by and be firmly bound by any purse contract or other legal commitment entered into by the Association on behalf of horsemen. The Association and all of its officers, agents and employees shall utilize all powers of persuasion and legal means at their disposal to implement this policy. Members of this Association shall review the contract on the premises of the Association only. Originals and copies of the contract are to be maintained at the office of the Association only.

ARTICLE III

MEMBERSHIP

Section 1: Eligibility

Except as otherwise provided in this section, any Owner, Trainer, or Owner-Trainer of a thoroughbred racehorse who is currently licensed as such by the Massachusetts or New Hampshire racing commission and who starts a thoroughbred racehorse in a qualifying race within the jurisdiction of this Association, shall be eligible for membership in the Association. Any partnership, corporation or other association that is so licensed and that starts a thoroughbred racehorse in a qualifying race within the jurisdiction of this Association shall likewise be eligible for membership.

Notwithstanding the foregoing, any member who, directly or indirectly, has an ownership interest of not less than the minimum percentage required for licensing of a person or entity by the Racing Commission or other authority having jurisdiction over race meetings at which members of the Association participate, shall be entitled to cast one vote in the Association's elections.

Section 2: Membership

Any person or entity eligible for membership in the Association shall become a member at such time as such person, or the entity through which eligibility for membership is established, shall start a thoroughbred racehorse in a qualifying race (which is a race on which pari-mutual wagering is authorized within the jurisdiction of this Association), unless the Association is notified in writing that such a person or entity does not desire to be a member.

Section 3: Honorary Membership

Any person who has performed distinguished service to the sport of thoroughbred racing and who is not already a member of the Association may be elected as an honorary member of the Association. Such election shall take place at a Board meeting. An honorary member shall not be required to pay dues or make contributions to the Association and shall not be entitled to vote or hold office in the Association.

Section 4: Duties of Membership

- (A) It shall be the duty of every member of the Association to conduct himself at all times in such manner as to merit the respect of the public and to act at all times in the best interests of the New England Horsemen's Benevolent & Protective Association, Inc.
- (B) Every member of the Association, by accepting the benefits of membership, agrees to abide by the Constitution and Bylaws of the Association, any order or decision of the Board of Directors, and to accept as final the decision of the Board of Directors after a hearing and agrees to hold the Association, its Officers, Directors and employees harmless for any action taken or not taken.

- (C) Contributions. Where not otherwise specified by law, contract, or other arrangement, each member shall contribute to the Association not less than two percent (2%) of any purse. Where a contract, law, or other arrangement exists between the Association and a racetrack for a different deduction, all horsemen racing at that racetrack shall be subject to such deduction from any purse, in lieu of the hereinbefore prescribed deduction.

Unpaid contributions remain the obligation of the member, irrespective of a change in the jurisdiction in which he may be racing. The Secretary upon verification by the Treasurer and approval of the Board of Directors shall notify each member leaving the jurisdiction of the Association with any unpaid balance by letter to said member stating that he is in default in the payment of his contributions, giving the amount thereof, and warning said member that his failure to pay same will be deemed a resignation from the Association, that he is subject to suspension or expulsion for failure to make said payment and that he will no longer be entitled to the privileges and benefits of the Association and the National Association. In the absence of a favorable reply, the name of the defaulting member shall be added to the non-member list of the Association.

Section 5: Tenure of Membership

- (A) Tenure. A member of the Association shall remain as such until any of the following occurs:
- 1) He or the entity through which membership is established ceases to be a licensed owner, trainer, or owner-trainer of a thoroughbred racehorse.
 - 2) The close of the calendar year following the last calendar year during which he, or such entity, started a thoroughbred racehorse in a qualifying race within the jurisdiction of this Association.
 - 3) He becomes (unless the consent of two-thirds (2/3rds) of the elected members of the Board of Directors has first been obtained) a member of any other rival organization that represents the owners' and trainers' interests and property rights in negotiating agreements with racing associations covering purses, pony lead fees, television rights, simulcasting, off-track betting or interest on owner's deposits in horsemen's bookkeeper accounts.
 - 4) He resigns, is suspended, or is expelled by the Association as provided herein.
- (B) Resignation. A member may resign from the Association by any of the following acts:
- 1) His written resignation.
 - 2) His failure or refusal to allow contributions to be deducted from purses either by direction to that effect or by knowingly accepting a check from the horsemen's bookkeeper from which no such deduction for Association dues has been made; and not having corrected the deficiency promptly upon demand.
- (C) Suspension or Expulsion. A member of this Association may be suspended or expelled from membership by a two-thirds (2/3rds) vote of the elected members of the Board of Directors, following a hearing for violation of any provision of the Constitution and Bylaws, or for illegal, unethical, or un-sportsman-like conduct, or for failure to remain in good standing in accordance with the rules of racing adopted by the state or states where

this Association's membership exists. A member shall be given reasonable notice of the hearing and shall have the right to be heard in person or by counsel and to introduce evidence on his behalf.

While a member is suspended, no benefits of membership will be provided to that member, nor shall he enjoy the rights and privileges of membership.

Any Director or Officer may be suspended or removed from office by two-thirds (2/3rds) vote of the elected members of the Board of Directors, following a hearing, for violation of any provision of the Constitution and Bylaws, or for any other cause or reason deemed detrimental to the best interests of the Association. The Officer or Director shall be given reasonable notice of the hearing and shall have the right to be heard in person or by counsel and to introduce evidence on his behalf.

- (D) Suspension for Debt. A member of this Association shall be immediately suspended from membership in the Association, without vote by the Board of Directors, for incurring a debt to the Association or any of the Association's affiliated accounts that remain unpaid for a period of sixty (60) days beyond the date the debt was first incurred. Such suspension of membership shall terminate the member's eligibility to participate in any benefits or programs offered by the Association.

Said member shall be reinstated to active membership status immediately upon full payment of all outstanding debt to the Association and any of the Association's affiliated accounts. Upon reinstatement to active membership status, the member's eligibility to participate in any of the Association's benefits or programs shall be restored as if there were no interruption in the member's eligibility.

Section 6: Temporary Membership Extension

Due to extreme limitations placed on the number of live Thoroughbred races run in Massachusetts during the 2015 and 2016 racing seasons, all licensed owners, trainers or owner/trainers who were NEHBPA members in good standing during the 2014 racing seasons and who have not had their membership terminated or suspended during said years shall be designated as members through December 31, 2017, regardless of license renewal status; provided that they remain in good standing and do not have their membership terminated or suspended prior to December 31, 2017.

ARTICLE IV

ELECTIONS AND VOTING

Section 1: Supervision and Nominations

All Association elections shall be under the supervision of the Board of Directors. An Election Committee of three (3) members shall be appointed by the Association's Board of Directors no less than twenty one (21) days before the first nominating meeting. The three members appointed to the Election Committee shall be neither members of the Board nor candidates for any offices.

The Election Committee shall be responsible for seeing that the election is run in accordance with the Constitution and Bylaws and shall attend the opening and counting of ballots.

The Election Committee shall hold a nominating meeting to receive nominations from the floor, to receive nominating petitions, and to announce all nominations. All nominees must be members of the Association. When more than one nominating meeting is held, the date of the last nominating meeting shall be deemed the date for each candidate's nomination. The Election Committee shall not accept any nomination after adjournment of the last nominating meeting.

There shall be at least one general nominating meeting at a track considered to be a major track within the jurisdiction of the Association. There must be at least thirty (30) members of the Association present at said meeting to constitute a quorum. Members present at the meeting shall sign a register evidencing their presence. A nomination from the floor shall be accepted if it receives the endorsement of not less than three (3) members present at the meeting, which shall include the nominator and two (2) seconds or by a petition signed by no fewer than five (5) members of the Association, if the nominee is not present at the meeting.

Written notice of the nominating meeting must be given to the membership of the Association by first class U.S. Mail to all members at least twenty (20) days before said meeting, which shall inform all members of their right to nominate, the methods of doing so, the date, time, and place of the nominating meeting and all other information necessary to fully inform each member of the elective process.

Section 2: Elections

An election shall be held every three (3) years to elect a Board of Directors, who shall hold office during their term and until their successors are elected. Immediately after the election, the newly elected Board of Directors shall, by majority vote elect one of the newly elected Directors, from those nominated and seconded, as President for a three (3) year term coinciding with the end of the next election. Eligibility of candidates for the office of President shall be limited to Directors who are elected or appointed to the Board of Directors under the Owner or Owner/Trainer designation and who meet all eligibility requirements of Art. IV Section 7. All newly elected Directors, including Presidential candidates, shall be eligible to cast a vote to elect a President.

Elections shall be held before the close of racing conducted in the jurisdiction of the Association.

Section 3: Candidates

The Secretary shall notify each candidate of his nomination by certified mail as soon after the nominating meeting as possible.

Within fifteen (15) days for the mailing to each candidate of notice of his nomination for office, said candidate shall complete and mail to the Secretary at the Association's Headquarters an affidavit on a form furnished by the Association that:

- (A) He fulfills the requirements of eligibility for office as provided in this Article;

- (B) He has read the requirements of the Constitution and Bylaws respecting elections and candidates, agrees to be bound by them and will obey any decision of the Board of Directors in regard thereto;
- (C) He will run for office, serve if elected, and remain eligible, as a member, to serve during the term of any office to which elected;
- (D) He is not a member, officer, or director of rival associations of thoroughbred horsemen, and has no other relationship that involves a conflict of interest as defined in Article IV, Section 5.

A candidate for office may also mail to the Secretary at the Association's Headquarters with his affidavit a biographical and policy statement of not more than three hundred (300) words within the same time limits required for his affidavit. The statement shall be issued as the candidate's official statement by the Association and shall not be issued, disseminated or used by the Association other than by enclosing a copy with the ballot.

The Secretary shall maintain a list of all persons nominated, their affidavits, biographical and policy statements, and current membership list of the Association.

No activity commonly referred to as "political activity" shall be allowed after the general nominating meeting. No campaign material, other than the biographical and policy statement, shall be permitted except for oral solicitation of votes on a person-to-person basis, by telephone or not more than one mailing by a candidate. Such mailing shall contain only positive information regarding the candidate and, prior to printing, content of such mailing shall be approved by the Election Committee whose decision shall be final. All costs of such mailing shall be the responsibility of the candidate. No candidate may authorize or knowingly permit any articles, statements or pictures about him to be published which could be construed as campaign material or "political activity" after the general nominating meeting in any NEHBPA related publication. There shall be no distribution of marked sample ballots, nor any placard or banner endorsing any candidate or slate of candidates. If any political activity, electioneering or distribution of campaign material shall be engaged in on behalf of a candidate in violation of this section with the knowledge and consent of a candidate, (1) said candidate may be disqualified (a) as a candidate for office or (b) from taking office if the election has been completed; or (2) that portion of the election in which a violation occurred may be rerun.

A protest to a candidate or an election must be in writing and sent by certified mail to the Chairman of the Election Committee at the Association's Headquarters. No protest of a candidate or an election may be postmarked after the expiration of seven (7) days following an election. Protests against the eligibility of elected Officers or Directors to continue to serve must be in writing, postmarked and mailed to the Secretary at the Association's Headquarters within seven (7) days following the discovery of facts to prove that his protest is timely. All such protests shall be forwarded to the American Arbitration association for hearing and decision. This hearing will be conducted in accordance with the current rules of the American Arbitration Association. The decision shall be final and binding except in point of law. Costs of such arbitration shall be borne by the party or parties whose position is not sustained in the Arbitration. All costs incurred by the Election Committee as a result of acting in behalf of the Association shall be borne by the

Association. Copies of current American Arbitration Rules shall be made available for review at the association Office.

All expenses of any kind whatsoever incurred by the protestants and those persons charged with violating any election rules shall be assumed and paid personally by said persons. No expenses of any kind will be assumed or paid by the Association on behalf of any candidate for office or protestant.

An elected candidate shall take office seven (7) days after his election. The lodging of a protest of an election or a candidate shall not affect the status of a newly elected Director until a hearing has been held in accordance with this Constitution and Bylaws.

Write-in candidates are not permitted. No ballot shall provide a space for a write-in candidate.

Section 4: Manner of Voting

Voting shall be by secret ballot. All voting and election procedures shall be supervised by an independent auditor, who shall have no affiliation to the New England Horseman's Benevolent and Protective Association or thoroughbred racing in accordance with the procedures set forth in the Constitution and Bylaws. Other procedures, not inconsistent therewith, adopted by the Board of Directors for the auditor to perform his duties with respect to the Association elections may be randomly checked by the Association's auditor and the Election Committee.

The selection of the auditing firm to be used shall be made by the Election Committee, with the advice and consent of the Board of Directors.

Not less than thirty (30) and not more than forty-five (45) days prior to an election, the auditor shall mail in an envelope bearing the auditor's return address, the following to the last known address of each owner, owner-trainer, and trainer who is qualified to vote:

- (A) A ballot;
- (B) An unmarked envelope capable of being sealed;
- (C) The approved biographical and policy statement of each candidate; and
- (D) A return envelope addressed to the auditor that shall have a space in the upper left-hand corner for the signature and the typed or printed name of the member and that shall have the word "Ballot" and the name of this Association appearing on its face. Said return envelope shall be sent by U. S. mail, postage paid, or shall be marked to indicate that postage will be paid by addressee.

The auditor shall use the membership roster of the Association for mailing of ballots. The Secretary shall maintain on a current basis the association's membership roster. Prior to the mailing of ballots, the Secretary or the other duly authorized Association representative shall use reasonable efforts to confirm the identity and address of each member. The Election Committee shall inspect the current membership roster for accuracy and send same to the auditor prior to the mailing of the ballots.

The auditor shall present or mail the same material, (ballot, etc.) to any eligible member person who requests the same in person and in writing at the auditor's place of business on the grounds that he or she has not received it by mail, or the auditor shall mail the same material (ballot, etc.), to any member who notifies the auditor in writing, at least ten (10) days prior to the election day, that he or she has not received it by mail due to improper address or other reason. The member shall be required to sign a receipt indicating that he or she has received the material requested from the auditor.

A member may vote by (1) marking his ballot, enclosing and sealing it in the unmarked envelope, enclosing and sealing that envelope in the return envelope addressed to the auditor, making certain that his name is printed or typed in the upper left-hand corner, signing in the upper left-hand corner and personally posting the envelope, or; by (2) marking his ballot, enclosing and sealing it in the unmarked envelope, enclosing and sealing that envelope in the return envelope addressed to the auditor, making certain his name; is printed or typed in the upper left-hand corner, signing it in the upper left-hand corner and personally delivering the ballot he received by mail to the auditor at specified date, time and location or locations. Such date, time and location or locations to be determined by the Election Committee. However, the location to personally deliver such ballots to the auditor shall not be an office of the NEHBPA, nor shall this manner of voting be available to the membership for longer than one day. Member presenting material must present proper identification, present only his own ballot and shall be checked off of a list of eligible voters by the auditor.

No envelope may contain more than one inner envelope and ballot. Failure to enclose a ballot in the unmarked envelope shall constitute a ground for voiding said ballot.

All ballots that are received by the auditor prior to the close of business on the day named for the election shall have the date and time of receipt noted thereon. Ballots shall be checked against the list of eligible voters in the Association and shall be counted by the auditor under the supervision of the Election Committee. After being counted, the ballots, envelopes and tally sheets shall be sealed and retained in the custody of the auditor for a period of not less than thirty (30) days or, in the event of a protest, until the final determination of the protest. In the event of duplicate voting, all ballots received from that individual shall be voided. No sealed envelope received by the auditor shall contain more than one ballot and if more than one ballot is contained therein, all ballots contained in the envelope shall be voided.

The Election Committee shall cause a notice to be placed on the ballot which indicates to each member that they shall return by mail or deliver to the auditor only their own ballot.

The Board of Directors shall have the power to authorize an election for the Association that varies from the provisions of this Constitution and Bylaws upon written request of not less than two hundred fifty (250) of its members and then only for proper cause. Any election that fails to follow the procedures authorized in this Article IV shall be subject to protest. Upon final determination by arbitration of any protest, the Board of Directors shall take action in accordance with said arbitration decision.

Section 5: Other Organizations – Conflict of Interest

No person who is or whose spouse is an officer or director of, or employed by either a Racing Association, Racing Commission, rival racing association, or other organization that presents a conflict of interest, or owner of a beneficial interest in a business operated at a racetrack shall be put on the ballot as or be a candidate for Director of the Association, provided that this prohibition may be waived by a two-thirds (2/3rds) vote of the elected members of this Association's Board of Directors and any such waiver shall be deemed for all purposes as a finding that such waiver is in the best interest of the Association. Notwithstanding the foregoing, such a candidate may make himself eligible without first obtaining Board approval by resigning his or having his spouse resign her position with any such other association prior to the member being placed on the ballot upon providing satisfactory proof of such resignation to the Board of Directors. No person who is elected as Officer or Director may become nor may his spouse become a member of any of the organizations referred to above during the member's term of office, except with the express consent as evidenced by a two-thirds (2/3rds) vote of the elected members of the Association's Board of Directors. To the extent any such conflicts of interest exist and are waived by the Association's Board of Directors, then the member affected by the conflict of interest shall not have the right nor be empowered to vote or otherwise take any action in his capacity as an Officer or Director with respect to any action or activity relating to the organization which created the conflict of interest.

Section 6: Election of the Board of Directors

The Board of Directors shall be elected by the Association's voting members. Six (6) Directors shall be owners-only and five (5) Directors shall be trainers or owner-trainers.

No person shall be eligible for nomination or to serve as a Director unless:

- (A) He has been a member in good standing of the Association as defined in Article III for at least fifty percent (50%) of the racing season during the one year immediately preceding the date of his nomination.
- (B) He is a member as defined in paragraph (A), on the date of his nomination, and remains eligible as such, at all times thereafter.
- (C) He has started one or more horses a minimum of five (5) times while a member in the Association in the one year immediately preceding the date of his nomination.

No person shall be eligible to run or be put on the ballot as an owner-only candidate unless he has raced in the Association as an owner-only for at least fifty percent (50%) of the racing season in the Association during the one year immediately preceding the date of his nomination.

No person shall be eligible to run or be put on the ballot as an trainer or trainer-owner candidate unless he has raced in the Association as a trainer or owner-trainer for at least fifty percent (50%) of the racing season in the Association during the one year immediately preceding the date of his nomination.

The term "one year" shall mean the 365 days immediately preceding the date of nomination of a candidate.

Section 7: Election of the President

The President shall be elected by majority vote of the Board of Directors. The Board of Directors shall solicit nominations of eligible sitting Board Directors for consideration by the Board of Directors for the office of President. No person shall be eligible to serve as President or Vice President unless:

- (A) He has been a member in good standing in the Association as defined in Article III for at least fifty percent (50%) of the racing season in the Association during each of the three (3) years immediately preceding the date of his nomination.
- (B) He has been licensed as an owner or owner-trainer for at least fifty percent (50%) of the racing season in the Association during each of the three (3) years immediately preceding the date of his nomination.
- (C) He has owned horses for at least fifty percent (50%) of the racing season in the Association during each of the three (3) years immediately preceding the date of his nomination.
- (D) He has started one or more horses a minimum of five (5) times while a member of the Association in each of the three (3) years immediately preceding the date of his nomination.
- (E) He meets the above qualifications on the date of his nomination.

The term “three years” means the 1,095 days immediately preceding the date of nomination of a candidate.

The term “Racing Season” means the number of days of racing (excluding overlapping days) in the Association in a calendar year.

Section 8: Election of Vice President(s)

The Board of Directors may elect up to two Vice Presidents from among its owners or owner-trainers. The board shall designate the number of Vice Presidents and their order of precedence. In case of the resignation, inability to serve because of illness or otherwise, or death of the President, the Vice President (if there is one) or the First Vice President (if there are two) automatically becomes President for the unexpired term. This shall be the sole function of the Vice President. The Second Vice President then becomes First Vice President with the vacancy to be filled in the lowest ranking Vice Presidency by the Board. All candidates for Vice president must fulfill the requirements for eligibility to be elected and serve as President.

ARTICLE V

Officers

Section 1: Board of Directors

- (A) **Composition.** The Board of Directors shall be comprised of a President and ten (10) voting members of the Association, at least one of whom shall be a Vice President. Members of the Board shall each serve for three (3) year terms and until their successors have been duly elected and qualified.

If any member of the Board resigns, or is unable to serve because of illness or otherwise, dies, or is absent from at least three (3) consecutive Board meetings without extenuating circumstances confirmed in writing to the Secretary within thirty (30) days after such absence, his position on the Board shall be declared vacant. A vacancy on the Board, regardless how it occurs, shall be filled by majority vote of the elected members of the Board.

- (B) **Meetings; Quorum.** Six (6) members of the Board shall constitute a quorum for the conduct of business, but a lesser number may adjourn a meeting from time to time pending attendance of a quorum. The President shall be entitled to vote as a member of the Board. Proxies shall not be permitted or accepted.

The Board shall hold at least two (2) Board meetings each year and such additional meetings as the welfare of the Association may require.

- (C) **Responsibilities.** The Board shall supervise all affairs of the Association and shall be governed by and subject to the Constitution and Bylaws.
- (D) **Liaison with Membership.** The Board of Directors shall, by means of the Racing Northeast, a Newsletter, or other appropriate means, maintain a close liaison with the membership of the Association and shall keep the membership fully informed concerning all Association business, its own deliberations, and all other matters of interest to horsemen.
- (E) The Board of Directors shall cause a written financial statement to be performed on all business conducted by the Association at the completion of each fiscal year. The financial statement shall be prepared by an independent auditing firm and certified by a licensed Certified Public Accountant. The Board of Directors, by majority vote, shall select and engage the independent auditing firm.

Upon completion of the written financial statement, the independent auditing firm shall present it directly to the Board of Directors at a Board meeting called for the purpose of receiving a thorough explanation of the financial statement. After presentation of the financial statement and the Board's satisfaction with the auditing firm's work, the Board shall vote to formally accept the written financial statement.

Every third year coinciding with the end of the year, in which an election is held, the written financial statement shall be conducted as a full and formal audit performed by an independent auditing firm and certified by a Certified Public Accountant. At the discretion of the Board of Directors, a Financial Review, in lieu of a full and formal audit, may be conducted in any non-election year.

The financial records of the Association, including the annual financial statements, shall be open for inspection by any Director or Officer and any member having a proper purpose as determined by the Board of Directors.

- (F) Bank accounts; Association Obligations. No bank account, savings account, certificate of Deposit, U. S. Treasury Bill, or other Association investment of any kind whatsoever may be opened, purchased and/or maintained by the Association without written notice to the Secretary, such notice to be given within thirty (30) days of the opening or purchase thereof or by the end of the fiscal year, whichever comes first. Withdrawal from, liquidation, redemption at maturity, or otherwise of any account, certificate of deposit, U.S. Treasury Bill, or investment must bear the signature of both the President and the Treasurer.

All Association funds shall be (1) deposited in banks in amounts not exceeding amounts guaranteed by the United States Government excluding interest earned thereon or (2) any other prudent investment at the discretion of the Board of Directors.

- (G) Bonding. The President, such employees of the Association and such members of the Board as may be designated by the Board, and the Secretary, Treasurer and Executive Director shall, at the cost of the Association, be bonded in such amounts and in such manner as determined by the Board.

Section 2: President

The President shall be the principal executive officer of the Association:

- (A) The president shall call and preside at all meetings of the Association and of the Board of Directors and shall determine the agenda for each such meeting.
- (B) He shall sign all checks drawn by the Treasurer for (1) payment of bills approved by the Finance Committee and (2) to carry out his responsibilities under the Constitution and Bylaws.
- (C) He shall report to the Board any irregularities or derelictions on the part of the Secretary, Treasurer or any member of the Board.
- (D) He shall, with the advice and consent of the Board, appoint members of all standing and special committees, except as otherwise provided herein.
- (E) He shall be an ex-officio member of all standing, special and other committees of the board.

- (F) He shall notify the Board of Directors forthwith of any charges brought or anticipated to be brought against any Officer or Director that may involve such Officer's or Director's right to race, or for the violation of this Constitution and Bylaws.
- (G) He shall call at least one (1) general meeting and at least two (2) Board meetings each year and such additional meetings as the welfare of the Association may require. He shall upon written petition of three (3) or more members of the Board, call a meeting of the Board within six (6) days if a race meeting is in progress and within thirty (30) days if a race meeting is not in progress. He shall upon written petition of thirty (30) or more members of the Association, call a general meeting of the Association within two (2) weeks if a race meeting is in progress and within thirty (30) days if a race meeting is not in progress. A petition for a general meeting must state the primary purposes or issues for which the meeting is called. The meeting must be held in the immediate race meeting vicinity where the issues or purposes arose. This requirement shall not prevent the consideration of other issues at the meeting. Decisions, recommendations and resolutions passed at general meetings shall be advisory only.
- (H) He shall cooperate with the Board in maintaining liaison with the membership and keeping it informed.
- (I) He shall not sign any signature cards for any bank account or deposits in any financial institutions, or sign any notes, negotiable instruments or obligations of the Association except as specifically allowed by the Constitution and Bylaws.

Section 3: Vice President(s)

A Vice President shall attend all meetings of the Association and the Board of Directors and shall fulfill, in the order of designation if there is more than one Vice President, the duties of the President in the event of his temporary absence. In the event of the resignation, expulsion, death, permanent disability or disqualification of the president, a Vice President, in the order of designation, shall succeed to the office of president of the Association.

Section 4: Executive Director

The President, with the advice and consent of the board of Directors, may employ an Executive Director. He shall not be a member of the Board of Directors. He shall perform all duties incident to the office of Executive Director and such other duties as may be prescribed by the Board of Directors from time to time. The Executive Director's primary responsibility shall be the management of administrative activities of the Association.

Section 5: Secretary

The Secretary and all other employees shall be appointed by the President with the advice and consent of the Board of Directors. The Secretary shall take office on the first day after both (a) the election of a President for a full term and (b) the President's appointment of the Secretary has been approved by the Board of Directors. The Secretary shall remain in office until the President's appointment of a new Secretary has been approved by the Board of Directors. The incumbent Secretary is urged to work with the newly appointed Secretary for a period of 30 days after a new Secretary has been appointed. The Secretary may be dismissed by the President for failure to perform the duties of that office as provided for in the Constitution and Bylaws. The Secretary shall not be a member of the Board of Directors. The Secretary shall not be a paid position and shall report to the Board of Directors, President and Executive Director and be under the direction of the President.

The Secretary shall:

- (A) Attend all meetings of the Association and of the Board, prepare the agenda for all such meetings and keep minutes thereon;
- (B) Keep a record of all track and race statistics in the Association;
- (C) Render all possible assistance and service to the President, Vice Presidents, Executive Director, the Board, and members of the Association;
- (D) Make available to members a copy of any executed contract and/or purse agreement;
- (E) Notify the Board of Directors forthwith of any charges brought or anticipated to be brought against any Officer or Director of the Association that may involve such Officer's or Director's right to race, or allegations of nonfeasance and misfeasance under the Constitution and Bylaws;
- (F) Perform duties with respect to Association elections as specified in Article IV hereof; and
- (G) Perform such other duties as may be directed by the President, Vice President, Executive Director and the Board of Directors.

Section 6: Treasurer

The Treasurer and all other employees shall be appointed by the President with the advice and consent of the Board of Directors. The Treasurer shall take office on the first day after both (a) the election of a President for a full term and (b) the President's appointment of the Treasurer has been approved by the Board of Directors. The Treasurer shall remain in office until the President's appointment of a new Treasurer has been approved by the Board of Directors. The incumbent Treasurer is urged to work with the newly appointed Treasurer for a period of 30 days after a new Treasurer has been appointed. The Treasurer may be dismissed by the President for failure to perform the duties of that office as provided for in the Constitution and Bylaws. The Treasurer may

be a member of the Board and, if so, shall have a vote thereon. The Treasurer shall not be a paid position and shall report to the Board of Directors, President and Executive Director and be under the direction of the President.

The Treasurer shall:

- (A) Collect and deposit all monies in the name of the Association only in a bank or banks and other similar financial institution, the deposits of which are guaranteed by the U. S. Government. The Secretary-Treasurer shall not sign signature cards for any bank account or deposit in any financial institution, or sign any note, negotiable instrument or obligation of the Association except as specifically allowed by the Constitution and Bylaws;
- (B) Draw and sign checks (which also require the signature of the President) for the payment of all bills that have been approved by the Finance Committee;
- (C) Require banks designated as depositories for Association funds to send cancelled checks and bank statements monthly, which the Secretary-Treasurer shall keep on file for a period of not less than five (5) years;
- (D) Keep and maintain on a current basis such books and accounts as may be necessary to record all financial transactions of the association and to correctly show the financial condition of the Association;
- (E) Render all possible assistance and service to the President, Vice Presidents, Executive Director, the Board, and members of the Association;
- (F) Perform such other duties as may be directed by the President, Vice President, Executive Director and the Board of Directors.

Section 7: General Counsel

The General Counsel shall act as the legal representative of the Association. He shall furnish such legal advice as he may be called upon from time to time to give to the Board of Directors of the Association and perform such other duties as are referred to in this Constitution and Bylaws.

Section 8: Committees

Their shall be standing committees as follows:

(A) **Finance Committee**

The Board of Directors shall choose three (3) of its members to serve as members of a Finance Committee. Before payment, the Finance Committee shall approve all bills of the Association. It shall cooperate with and assist the Treasurer to assure that all bills can be paid on or before their due date. It shall supervise the financial affairs of the Association,

the issuance of checks, collection of receipts and the keeping of proper records relating thereto by the Treasurer.

(B) Election Committee

There shall be an Election Committee as provided in Article IV, Section 1.

(C) Advisory Committee

The President may appoint an Advisory Committee with the advice and consent of the Board of Directors. The Advisory Committee shall consist of owners, trainers and/or owner-trainers who are not members of the Board. Members of the Advisory Committee shall attend meetings of the Association whenever possible. They shall have no vote at meetings of the Board. The Advisory Committee shall meet at the call of its Chairman and at the call of the President. It shall furnish to the President and to the Board such advice and assistance as may be requested or as the Advisory Committee may deem appropriate. Members of the Advisory Committee may be designated to sit as non-voting members of any other committee of the Association.

(D) Backstretch Committee

The President shall appoint Backstretch Committees with the advice and consent of the Board of Directors. It shall consist of three (3) or more members at each racetrack in the jurisdiction of the Association. It shall be responsible for the improvement of backstretch conditions and facilities, which shall include living quarters, sanitation, restaurants or kitchens, and recreational facilities.

(E) Additional Standing or Special Committees

The President shall appoint with the advice and consent of the Board such additional standing or special committees as the needs of the Association may dictate.

Section 9: General Meetings

There shall be at least one (1) general membership meeting of the Association each year, and such additional meetings as the welfare of the Association may require.

Fifty (50) voting members shall constitute a quorum for the transaction of all business at general membership meetings of the Association called by the President of the Association, but a lesser number may adjourn a meeting from time to time pending attendance of a quorum.

Section 9: Limitations on the Association

- (A) If the Association is unable to arrive at an agreement with Racing Association concerning purses or other conditions of racing, or if the Association shall for any other reason anticipate a desire on the part of horsemen not to enter their horses in races, the Association, the President and the Board of Directors shall utilize all powers at their

disposal to assure that no such cessation of entries takes place without a general meeting of horsemen having been called and held.

- (B) The Association may not obligate itself for legal or attorney's fees without the prior written consent of the Board of Directors.

In the case of retainer arrangements for continuing legal or attorney services prior approval of this Association's Board of Directors shall be required.

- (C) No litigation shall be instituted by this Association without prior approval of the Board of Directors.
- (D) Contracts of the Association shall not exceed a term of three (3) years.

ARTICLE VI

NATIONAL ASSOCIATION MEMBERSHIP

The Board of Directors may, by appropriate resolution, elect to be affiliated with a national organization.

ARTICLE VII

INDEMNIFICATION

Section 1: Indemnification of Directors and Officers

The Association shall indemnify any Director or Officer, or former Director or Officer (including former Officers and Directors of the Association when it was an unincorporated division of the National Association), against expenses actually and reasonably incurred by him in connection with the defense of any action, suit or proceeding, civil or criminal, in which he is made a party by reason of being or having been such Director or Officer, except in relation to matters to which he shall be adjudged in such action, suit or proceeding to be liable for negligence or misconduct in the performance of his duty to the Association.

Section 2: Discretionary Indemnification of Employees and Agents

The Association shall have the right, in the discretion of the Board of Directors, to indemnify any employee or agent, or former employee or agent (including former Officers and Directors of the Association when it was an unincorporated division of the National Association), against such expenses actually and reasonable incurred by him in connection with the defense of any action, suit or proceeding, civil or criminal, in which he is made a party by reason of being or having been

such employee or agent, except in relation to matters as to which he shall be adjudged in such action, suit or proceeding to be liable for negligence or misconduct in the performance of his duty to the Association.

Section 3: Indemnification Expenses

Indemnification may be against judgments, penalties, fines, reasonable settlements and reasonable expenses (including attorney's fees) actually incurred by the person entitled to indemnification in connection with the action, suit or proceeding. No indemnification shall be provided, however, for any person with respect to any matter unless he has given written notice thereof to the General Counsel of the Association promptly after he has received notice of the claim giving rise to the action, suit or proceeding.

ARTICLE VIII

MEMBERSHIP LEDGER

The Association shall maintain at its principal office and such other office as the Board may designate, an original or duplicate membership ledger containing the name and address of each member.

ARTICLE IX

FISCAL YEAR

The fiscal year of the Association shall coincide with the calendar year. The Board of Directors shall have the power to change the fiscal year of the Association by a duly adopted resolution.

ARTICLE X

SEAL

Section 1: Seal

The Association's seal shall have inscribed thereon the name of the Association, the year of its organization, and the words "Incorporated Massachusetts". The Board of Directors may authorize one or more duplicate seals and provide for the custody thereof.

Section 2: Affixing Seal

Whenever the Association is required to place its seal to a document, it shall be sufficient to meet the requirements of any law, rule or regulation relating to a seal to place the word “(SEAL)” adjacent to the signature of the person authorized to execute the document on behalf of the Association.

ARTICLE XI

WAIVER OF NOTICE

Whenever any notice is required to be given pursuant to the Articles of Incorporation or Constitution and Bylaws of the Association pursuant to applicable law, a waiver thereof in writing, signed by the person or persons entitled to such notice, whether before or after the time stated therein, shall be deemed equivalent to the giving of such notice. Neither the business to be transacted at nor the purpose of any meeting need be set forth in the waiver of notice, unless specifically required by statute. The attendance of any person at any meeting shall constitute a waiver of such notice of such meeting, except where such person attends a meeting for the express purpose of objecting to the transaction of any business on the ground that the meeting is not lawfully called or convened.