

BYLAWS
OF
HILO DOWNTOWN IMPROVEMENT ASSOCIATION

ARTICLE I

Name

The name of the organization shall be "HILO DOWNTOWN IMPROVEMENT ASSOCIATION" referred to in these Bylaws as the "DIA". The principal office of the DIA shall be at such address in the City of Hilo, County and State of Hawaii as the Board of Directors shall from time to time determine.

ARTICLE II

Objects and Powers

In addition to the objects, purposes and powers set forth in the DIA's Charter of Incorporation, the DIA shall foster, promote, maintain and encourage the civic, social, commercial tourist and economic welfare of the downtown portion of Hilo.

The DIA shall have the power to appear before any Federal, State, or Municipal officer, body, commission or committee or other lawful authority for any of the purposes herein expressed, and to do any and all acts of any kind or nature, alone or in cooperation with any such authority, as may be necessary or desirable for the purpose of carrying out any of the objects herein expressed.

ARTICLE III

Membership

Any person, firm or corporation shall be eligible for membership in the DIA. Firms and Corporations may change their representatives upon notice of writing to the Secretary or Executive Director, and such change shall be effective upon receipt of such notice.

Any person, firm, or corporation may become a member of the DIA by signing a written application for membership in such form, as the Board of Directors shall from time to time prescribe and upon payment of the prescribed dues for such membership.

Any member may resign his or her membership by filling a written resignation with the Secretary or Executive Director. Such resignation shall not relieve any member of liability for dues accrued and unpaid at the time of such resignation was filed.

Any member whose dues remain unpaid three (3) months after the date on which they are payable shall be dropped from membership, provided that prior notice of dues payable has been sent to the member.

The Board of Directors may deny or cancel the membership of any member whose conduct is deemed prejudicial to the objects, welfare or character of the association, provided notice of such alleged prejudicial conduct shall first be mailed to such member at least ten (10) days prior to the meeting of the Board of Directors at which such conduct will be considered. The notice shall give the time and place of the meeting of the Board of Directors and the conduct alleged to be prejudicial. At such meeting the accused member may appear in person or be represented by a duly authorized representative and with such witnesses as the member shall be heard by the Board of Directors. Any member whose membership is cancelled by the action of the Board of Directors shall be repaid the pro-ration of his annual dues from the date of the cancellation to the end of the current fiscal year.

ARTICLE IV

Fiscal Year, Dues and Assessments

The Board of Directors may at its discretion fix and change from time to time the fiscal year for the general purposes of the DIA, and may also fix and change from time to time any fiscal year for the purposes of duration of membership including membership categories and amounts for the payment of dues.

ARTICLE V

Meetings of Members

The annual meeting of the members shall be on a date set by the Board of Directors. The date shall be within 60 days following the close of the fiscal year. The place of such meetings shall be in Hilo, Hawaii at such time and place as shall be determined by the Board of Directors. Notice of the time and place of such annual membership meeting shall be sent by the Secretary or Executive Director by mail or otherwise at least one week prior to the date thereof.

At such annual meetings, the order of business shall be the election of new Directors and the conducting of any old or new business placed on the agenda by the Board of Directors.

Special meetings of the members may be called as designated by the Board of Directors or not less than one-half of the members. Notice of the time and place of such meetings shall be sent by the Secretary or Executive Director, by mail or otherwise, to each member at least one week prior to the date thereof. At such special meetings, only such business as the meeting is called to consider shall be acted on.

At all membership meetings, one tenth (1/10) of the member shall constitute a quorum for the transaction of business and shall be governed by the "Robert's Rules of Order.

ARTICLE VI

Directors

The government of the DIA shall be vested in a Board of Directors composed of a number not less than six (6) nor more than twelve (12) persons who shall be members of the DIA. The term of office of each Director shall be three (3) years, and one-third (1/3) of the membership of the Board of Directors shall be elected each year. The Board of Directors shall meet monthly.

The Directors shall be elected by the members of the DIA at each annual membership meeting. At least one month prior to the annual membership meeting, the President shall appoint a Nominating Committee of not fewer than three (3) or more than five (5) members. A majority of the Nominating Committee shall be a quorum. The Nominating Committee shall meet and submit to the President, at least two (2) weeks before the annual membership meeting, a list of the nominees for Directors to be voted on at such annual meeting. The Secretary or Executive Director shall provide a copy of such list to each DIA member attending the meeting. Additional nominations may be made at the membership meeting. The Board of Directors shall meet immediately after the annual meeting to organize and elect the officers of the DIA.

Each member of the Board of Directors shall be eligible to vote. All questions before the Board of Directors shall be decided by the majority vote of those Directors present at any meeting of the Board at which a quorum of Directors is present.

Any vacancy on the Board created by a departing Director may be filled by the Board of Directors at any regular or special meeting thereof. A Director so elected by the Board shall serve the un-expired term of the vacancy.

The President and any three (3) Directors may call a special meeting of the Board of Directors at any time. Notice of the time and place and purpose of such special meeting shall be sent by the Secretary or Executive Director, by mail or otherwise, to each Director at least one day prior to the date thereof.

At any regular or special meeting of the Board of Directors, one-half (1/2) of the total number of Directors shall constitute a quorum for the transaction of business.

The Board of Directors shall set the compensation of the salaried staff and determine the fringe benefits applicable.

No Director shall receive any compensation for any duties performed as such Director, unless the Board of Directors specifically votes a salary or compensation for the Director.

Each Director has the duty to attend all meetings of the Board of Directors. A Director unable to attend a meeting of the Board shall notify by telephone the Secretary or Executive

Director or such person designated for such purpose, whatever the case may be, at least 48 hours prior to the start of the meeting at which the Director will not be present.

The Board of Directors may hold closed session meetings, at which persons may attend by invitation only, whenever the majority of the Board determines that such meetings should be held only to protect the trade secrets, or marketing, or financial, or personnel and other confidential information regarding the DIA or any affiliated business.

Any Director may resign at any time by delivering a written resignation to the President, Secretary, Executive Director or the Board of Directors. Any Director, who misses more than three meetings during the year, without providing an excuse satisfactory to the Board, shall be deemed to have resigned.

As provided in Article XIV below, every Director or former Director of the DIA shall be indemnified against expenses incurred in the connection with the defense of any action, suit or proceeding civil or criminal in which the Director is party by reason of being or having been a Director.

The rules of order, which shall govern the meetings of the Board of Directors, shall be those in the last edition of "Robert's Rules of Order".

ARTICLE VII

Officers

The officers of the DIA shall be a President, Vice-President, Treasurer and a Secretary. An Executive Director may also be selected and appointed by the Board and may serve as an Officer of the DIA at their pleasure. This Executive Director may be compensated as approved by the Board but may not be an elected Board Member.

The President shall be the chief executive officer of the DIA and shall have the general authorities and duties usually vested in the chief executive officer of a corporation. He shall preside at all meetings of the members and of the Board of Directors. Except as otherwise provided by these Bylaws, the President shall determine all standing committees as well as any other committees he may deem necessary. He shall submit a complete report of the activities and business of the DIA for the preceding fiscal year at the annual membership meeting. He shall report to the Board of Directors at their meetings on all matters within his knowledge, which the interests of the DIA may require to be brought to their notice.

The Vice-President shall perform the duties and have the powers of the Presidency during the absence or disability of the President. That person shall perform such other duties and have such other powers, as the Board of Directors shall designate. If both the President and Vice-President are absent, then the Board shall, by a majority vote, elect a chairperson pro tem.

The Treasurer shall perform the duties and have the power usually vested in a treasurer of a corporation to expend the DIA's fund for good and useful purpose as so authorized, make a complete accounting of funds collected and expenditures. That person shall render to the association at its annual membership meeting a complete financial report for the fiscal year immediately preceding, and shall monthly render to the Board of Directors such financial reports as they may direct.

The Secretary shall have the general powers and duties usually vested in the office of the Secretary of a corporation. That person shall attend to the giving and serving of all notices required by these Bylaws.

The Executive Director, if appointed, shall be a competent Business Manager who shall conduct the general and active day-to-day management of the business and affairs of the DIA subject to the authority of the Board of Directors. The Executive Director shall see that all orders and resolutions of the Board of Directors or its Officers are carried into effect, shall be in general charge of the affairs of the DIA that will be duly authorized by the Board of Director or its Officers.

No officer shall receive any compensation for any duties performed as such Officer, unless the Board of Directors specifically votes a salary or compensation for the Officer.

Any Officer may resign at any time by delivering a written resignation to the President, Secretary, Executive Director or the Board of Directors.

ARTICLE VIII

Order of DIA Business

The order of business of any regular or special meeting of the Member or the Board shall be:

- a. Call to Order.
- b. At Board Meetings a Roll Call of Present, Excused, Absent, Guests.
- c. Reading and approval of any unapproved Minutes.
- d. Reports of Officers. Executive Director, Committees.
- e. Approval of Treasurers Report and Statements
- f. Unfinished Business.
- g. New Business.
- h. Remarks for the good of the cause.
- i. Adjournment.

ARTICLE IX

Committees

The DIA Board of Directors, by Resolution adopted by the majority of the Directors in office, may designate Committees and their Chairperson as deemed necessary. Each Committee so

designated shall consist of one or more members of the Board who shall carry such powers as designated by the Board of Directors. Both DIA members and nonmembers may participate on the designated Committees or their Sub-Committees but nonmembers may not vote on motions before the Committee.

The designated Committees may make its own rules for its government not inconsistent with these Bylaws or any resolutions of policies adopted by the Board of Directors. The designated Committees shall report to the Board of Directors providing Committee Reports or Minutes as requested by the Board.

ARTICLE X

Financial

Notwithstanding **Article XI, Limits of Authority**, the following financial provisions apply.

The Board may authorize any officer or officers, agent or agents of the DIA to enter into any contract or execute and deliver any instrument in the name of and on behalf of the DIA, and such authority may be general or confined to a specific instance.

The President or Executive Director is authorized to execute the activities of the DIA. They are authorized to sign all documents, checks, applications and contracts required by the DIA for financial support, purchase of services and other requirements necessary for the DIA.

All checks, drafts, or orders for the payment of money, notes, or other evidence of indebtedness issued in the name of the DIA shall be signed by the officer or officers, agent or agents of the DIA and in a manner as shall from time to time be determined by resolution of the Board. In the absence of determination by the Board, these instruments shall be signed by the Treasurer and countersigned by the President of the DIA. No person shall be both beneficiary and the signatory for the same check or document.

All funds of the DIA shall be deposited in an expeditious manner to the credit of the DIA in such banks or other depositories as the Board may elect.

The Board may accept on behalf of the DIA any contribution, gift, bequest, or device for the general purpose of the DIA.

Upon approval of the Annual Budget by the Board of Directors, disbursements or indebtedness may be made for items specifically provided for in the budget without additional approval of the Board of Directors as long as the amount to be disbursed or debt incurred does not exceed that amount budgeted for the item.

No Officer, employee, or Committee shall have the power to incur financial obligations, nor incur any indebtedness or bind the DIA by any action or commit it to any course of action or to speak for the DIA without prior authorization of the Board of Directors.

The Board of Directors may authorize any officer or officers, agents or agents of the DIA to enter into any contract of execute or deliver any instrument in the name of and on behalf of the DIA.

ARTICLE XI

Limitation of Authority

No one may speak or act for the DIA without prior authorization of the Board of Directors.

ARTICLE XII

Books and Records

The DIA shall keep correct and complete books and records of account and shall keep minutes of the proceedings of its Members, the Board, and Committees having any authority of the Board of Directors. The DIA shall keep at the principal office a record giving the names and addresses of the members. Any Member or Members agent may inspect the Books and Records, for any proper purpose, at any reasonable time, upon having first made application to an Officer of DIA. The Board shall cause an audit of the records of the DIA to be made each year by a competent Accountant. The Board shall cause the filing of any taxes or returns required of DIA.

ARTICLE XIII

Waiver of Notice

Whenever any notice is required to be given under the provisions of the statutes of the State of Hawaii or the Articles of Incorporation or the Bylaws of DIA, a waiver thereof in writing signed by the person or persons entitled thereto, whether before or after the time stated therein, shall be deemed equivalent to the giving of such notice.

ARTICLE XIV

Indemnification of Directors and Officers

Indemnification Generally

The DIA shall indemnify each person who was or is a party or is threatened to be made party to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative (other than an action by or in the right of the DIA) by reason of the fact that such person is or was a Director or Officer of the DIA, against expenses (including attorneys' fees), judgments, fines, amounts paid in settlement actually or reasonably incurred by such person in connection with such action, suit or proceeding if such person acted in good faith and in a manner

such person reasonably believed to be in or not opposed to the best interest of the *DIA*, and with respect to any criminal action or proceeding, had no reasonable cause to believe such conduct was unlawful. The termination of any action, suit or proceeding by judgment, order, settlement, conviction, or upon a plea of *nolo contendere* or its equivalent, shall not of itself create a presumption that the person did not act in good faith and in a manner which such person reasonably believed to be in or not opposed to the best interests of the *DIA* or, with respect to any criminal action or proceeding, create a presumption that such person had reasonable cause to believe that such person's conduct was unlawful.

Suits by or in the Right of the DIA

The *DIA* shall indemnify each person who was or is a party or is threatened to be made a party to any threatened, pending or completed action or suit by or in the right of the *DIA* to procure a Judgment in its favor by reason of the fact that such is or was a Director or Officer of the *DIA*, or is or was serving at the request of the *DIA* as a Director or Officer of another corporation, partnership, joint venture, trust or other enterprise against expenses (including attorneys' fees) actually and reasonably incurred by such person in connection with the defense or settlement of such action or suit if such person acted in good faith and in a manner such person reasonably believed to be in or not opposed to the best interests of the corporation and except that no indemnification shall be made in respect of any claims, issue or matter as to which such person shall have been adjudged to be liable for negligence or misconduct in the performance of such personal duty to the corporation unless and only to the extent that the court in which such action or suit was brought shall determine upon application that, despite the adjudication of liability but in view of all the circumstances of the case, such person is fairly and reasonably entitled to indemnity for such expenses which such court shall deem proper.

Effect of Success in Defense

To the extent that a Director or Officer of the *DIA*, or person serving at the request of the *DIA* as a Director or Officer of another corporation, partnership, joint venture, trust or other enterprise, has been successful on the merits of otherwise in defense of any action, suit or proceeding referred to in this article, or in defense of any claim, issue or matter therein, such person shall be indemnified against expenses (including attorneys' fees) actually and reasonably incurred by such person in connection therewith.

Authorization for Indemnification

Any indemnification shall be made by the *DIA* upon a determination that indemnification of the Director or Officer is proper in the circumstances because such person has met the applicable standard of conduct set forth by this article. Such determination may be made:

- a. By the Board of Directors by a majority vote of quorum consisting of Directors who were not parties to such action, suit or proceeding; or
- b. If such a quorum is not obtainable, or even if obtainable, if a quorum of disinterested Directors so directs, by independent legal counsel in a written opinion to the *DIA*; or
- c. By the court in which such proceeding is or was pending upon application made by the *DIA* or the agent or the attorney or other person rendering services in connection with the defense, whether or not such application by the agent, attorney or other person is opposed by the *DIA*.

Expenses of Defense

Expenses incurred in defending any action, suit or proceeding may be paid by the DIA in advance of the final disposition of such action, suit or proceeding as authorized by the Board of Directors in a particular case upon receipt of an undertaking by or on behalf of the Director or Officer to repay such amount unless it shall ultimately be determined that such person is entitled to be indemnified by the DIA as authorized by this article.

Indemnification not Exclusive

The indemnification provided by this article shall not be deemed exclusive of any other rights to those indemnified may be entitled and shall continue as to a person who has ceased to be a Director or Officer and shall inure to the benefit of the heirs, executors and administrators of such person.

Insurance

The DIA shall have the power to purchase and maintain insurance on behalf of any person who is or was a Director, Officer, employee or other agent of the DIA or is or was serving at the request of the DIA as a Director, Officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise against any liability asserted against such person and incurred by such person in any such capacity or arising out of such person's status as much, whether or not the DIA would have the power to indemnify such person against such liability. Any such insurance may be procured from any insurance company designated by the Board of Directors.

ARTICLE XV

Amendments

No alteration, amendment or repeal of these Bylaws shall be made except by a majority vote of the members present at the annual meeting or at a special meeting called for that purpose, and not then unless the proposed alteration, amendment or repeal shall have been previously submitted to the Board of Directors and approved by a majority of the members of the Board present at the meeting.

Certification

This is to certify that the above Bylaws of the Hilo Downtown Improvement Association, having been amended, were duly adopted by the Members of the Association at their meeting on November 12, 2002. Further, the DIA Board of Directors adopted the Bylaws at the meeting on October 10, 2002.

Dated: Hilo, Hawaii, _____

Hilo Downtown Improvement Association