

MARS AREA BAND BOOSTERS INC

# **Mars Area Band Boosters Inc.**

## **By Laws**

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# Mars Area Band Boosters Inc. By Laws

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## ARTICLE I

### OFFICES AND FISCAL YEAR—

Section 1.01 *Registered Office.* The registered office of the corporation in the Commonwealth of Pennsylvania shall be at 520 Route 228, Mars, Butler County, Pennsylvania 16046, until otherwise established by a vote of a majority of the Board of Directors in office (the "Board"), and a statement of such change is filed in the Department of State; or until changed by an appropriate amendment of the articles of the corporation.

Section 1.02 *Other Offices.* The corporation may also have offices at such other places within or without the United States of America as the Board may from time to time appoint, or the business of the corporation requires.

Section 1.03 *Calendar Year.* The fiscal year of the corporation *for accounting and tax purposes* shall begin on the 1st day of January in each year. *The calendar year for all other purposes shall begin on the 1<sup>st</sup> day of June in each year.*

## ARTICLE II

### PARTICIPATION

Section 2.01 *Participation in the Corporation.* Mars Area Band Boosters Inc shall be comprised of persons over the age of 18 showing a sincere interest in the instrumental music program of the Mars Area School District. No formal membership application or approval process is required. These Bylaws will refer to Participants, Members, Participation, and Membership interchangeably and as equal terms throughout this document.

## ARTICLE III

### BOARD OF DIRECTORS

Section 3.01 *Powers.* The Board shall have full power to conduct, manage, and direct the business and affairs of the corporation; and all powers of the corporation are hereby granted to and vested in the Board.

Section 3.02 *Qualification and Selection.* Each Director of the corporation shall be a natural person of full age, but need not be a resident of Pennsylvania. Additionally, a Director must meet at least one of the following criteria to be eligible to hold a Director position:

1. Currently hold or have previously held an Executive Officer position within the corporation or,
2. Currently hold or have previously held a leadership position on any formally recognized committee within the corporation or,
3. Have previous, verifiable experience as an office holder on any nonprofit Board of Directors or nonprofit Executive Officer position or have verifiable specialized knowledge or

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experience specific to nonprofit corporations and express a desire to apply that knowledge and experience as a Director of Mars Area band Boosters Inc.

A Director may also concurrently serve as an Executive Officer of the corporation, if the person meets the qualifications to hold each office, and if selected or elected to both positions. In the case of vacancies, new Directors shall be selected by the Board. If a vacancy cannot be filled, the position can remain vacant until such time as someone can be found to fill the vacancy.

A person or group of persons entitled to appoint, designate or otherwise select one or more directors may select one or more alternates for each such director. Such designation shall be filed in writing with the Secretary of the corporation and may at any time by such person or group of persons or their successors by the filing in writing with the secretary of a superseding designation or of a statement that the existing designation or designations are revoked. Such superseding designation or revocation shall take effect upon or after filing in accordance with its terms. In the absence of a director from a meeting of the Board, one of his alternates may attend such meeting and exercise at the meeting all of the powers of the absent director, or such lesser powers as may be specified in the designation. When so exercising the powers of the absent director, such alternate shall be subject in all respects to the provisions of law relating to the fiduciary responsibilities of a director of a corporation.

**Section 3.03 *Number and Term of Office.*** The Board shall consist of at least 4, but no more than 10, directors as may be determined from time to time by resolution of the Board. Each Director shall hold office for 5 years and until his successor shall have been elected and qualified, or until his earlier death, resignation, or removal.

The 5-year term shall be adjusted among all Director positions so that the maximum number of Directors renewed, selected, or elected in any given year is two. Directors holding office at the start of 2010 shall first be eligible or subject to renewal, reselection, or re-election at the regularly scheduled Board meeting in 2015. The offset and adjustment process will begin in 2019 with the Chairman of the Board position proceeding with the other Directors in descending order from Vice Chairman 1, Vice Chairman 2, through all Director positions and will complete in 2019 at which time a regular rotation shall be defined and commence.

**Section 3.04 *Organization.*** At every meeting of the Board, the Chairman of the Board, if there be one, or, in the case of a vacancy in the office or absence of the Chairman of the Board, one of the following officers present in the order stated: the Vice Chairman of the Board, if there be one, the President/Chief Executive officer, the Vice Presidents in their order of rank and seniority, or a Chairman chosen by a majority of the Directors present, shall preside, and the Secretary, or, in his/her absence, as Assistant Secretary, or in the absence of the secretary and the Assistant Secretaries, any person appointed by the Chairman of the meeting, shall act as Secretary.

**Section 3.05 *Resignations.*** Any Director of the corporation may resign at any time by giving written notice to the Chairman or the Secretary of the corporation. Such resignation shall take effect

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at the date of the receipt of such notice or at any later time specified therein and, unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

Section 3.06 *Vacancies*. The Board may declare vacant the office of a Director if he is declared of unsound mind by an order of court, or convicted of a felony, or for any other proper cause, or if within 60 days after notice of his/her selection, he/she does not accept such office either in writing or by attending a meeting of the Board.

Any vacancy or vacancies in the Board because of death, resignation, removal in any manner, disqualification, an increase in the number of directors, or any other cause, may be filled by a majority of the remaining members of the Board though less than a quorum, at any regular or special meeting; and each person so elected shall be a director to serve for the balance of the unexpired term.

Section 3.07 *Place of Meeting*. Meetings of the Board may be held at such place within or without Pennsylvania as the Board may from time to time appoint, or as may be designated in the notice of the meeting.

Section 3.08 *Regular Meetings*. Regular meetings of the Board shall be held at such time and place as shall be designated from time to time by resolution of the Board. If the date fixed for any such regular meeting be a legal holiday under the laws of the State where such meeting is to be held, then the same shall be held on the next succeeding business day, not a Saturday, or at such other time as may be determined by resolution of the Board. At such meetings, the Board shall transact such business as may properly be brought before the meeting. Notice of regular meetings need not be given unless otherwise required by law or these by-laws.

Section 3.09 *Special Meetings*. Special meetings of the Board shall be held whenever called by the president, chief executive officer or by two or more of the directors. Notice of each such meeting shall be given to each director by telephone or in writing at least twenty-four hours (in the case of notice by telephone) or forty-eight hours (in the case of notice by telegram or email) or five days (in the case of notice by mail or the corporate web site, [www.marsband.com](http://www.marsband.com)) before the time at which the meeting is to be held. Every such notice shall state the time and place of the meeting.

Section 3.10 *Quorum, Manner of Acting, and Adjournment*. Except as otherwise provided in Section 3.09 of this Article, a majority of the directors in office shall be present at each meeting in order to constitute a quorum for the transaction of business. Every director shall be entitled to one vote. Except as otherwise specified in the articles or these by-laws or provided by statute, the acts of a majority of the directors present at a meeting at which a quorum is present shall be the acts of the Board. In the absence of a quorum, a majority of the directors present and voting may adjourn the meeting from time to time until a quorum is present. The directors shall act only as a board and the individual directors shall have no power as such, except that any action which may be taken at a meeting of the Board may be taken without a meeting, if a consent or consents in writing setting

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forth the action so taken shall be signed by all of the directors in office and shall be filed with the secretary of the corporation.

Section 3.11 *Executive and Other Committees*. The Board may, by resolution adopted by a majority of the Directors in office, establish an Executive Committee and one or more other committees. The Board may designate one or more Directors as alternate members of any committee, who may replace any absent or disqualified member at any meeting of the committee. In the absence or disqualification of a member, and the alternate or alternates, if any, designated for such member, or any committee, the member or members thereof present at any meeting and not disqualified from voting, whether or not he or they constitute a quorum, may unanimously appoint another Director to act at the meeting in the place of any such absent or disqualified member. Each committee of the board shall serve at the pleasure of the board. Each regular committee Head or Chairperson, except the Executive Committee and any other committees specifically enumerated in these Bylaws, will report to the designated Executive Vice President as defined in section 5.09. The Executive Committee shall report to the Board of Directors.

The Executive Committee shall have and exercise all of the powers and authority of the Board in the management of the business and affairs of the corporation, except that the Executive Committee shall not have any power or authority as to the following:

- (1) The filling of vacancies in the Board.
- (2) The adoption, amendment or repeal of the by-laws, except as described in Section 7.12 (Amendment of the Bylaws).
- (3) The amendment or repeal of any resolution of the Board.

No committee of the Board other than the Executive Committee, shall, pursuant to resolution of the Board or otherwise, exercise any of the powers or authority vested by these by-laws or the Nonprofit Corporation Law of 1988 in the Board as such, but any other committee of the Board may make recommendations to the Board or Executive Committee concerning the exercise of such powers and authority.

The establishment of any committee of the Board and the delegation thereto of power and authority shall not alone relieve any director of his fiduciary duty to the corporation.

A majority of the directors in office designate to a committee, or directors designated to replace them as provided in this section, shall be present at each meeting to constitute a quorum for the transaction of business and the acts of a majority of the directors in office designated to a committee or their replacements shall be the acts of the committee.

Each committee, except the Executive Committee, shall report its proceedings periodically to the Executive Vice President responsible for that committee and at regular monthly general membership meetings as necessary or required. The Executive Vice President overseeing a committee shall report to the Board periodically or as requested. The Executive Committee shall

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report its proceedings to the Board periodically on at least an annual basis, or at other times as requested by the Board.

Section 3.12 *The Chairman and Vice Chairman of the Board.* The Chairman of the Board or in his/her absence, the First Vice Chairman of the Board, shall preside at all meetings of the members of the Board, and shall perform such other duties as may from time to time be requested of him by the Board.

Section 3.13 *Interested Directors or Officers; Quorum.* No contract or transaction between the corporation and one or more of its Directors or Officers, or between the corporation and any other corporation, partnership, association, or other organization in which one or more of its Directors or Officers are Directors or Officers, or have a financial interest, shall be void or voidable solely for such reason, or solely because the director or officer is present at or participates in the meeting of the Board which authorizes the contract or transaction, or solely because his or their votes are counted for such purpose, if:

(1) The material facts as to the relationship or interest and- as to the contract or transaction are disclosed or are known to the Board and the Board in good faith authorizes the contract or transaction by the affirmative votes of a majority of the disinterested directors, even though the disinterested directors are less than a quorum; or

(2) The contract or transaction is fair as to the corporation as of the time it is authorized, approved or ratified, by the Board.

Common or interested directors may be counted in determining the presence of a quorum at a meeting of the Board which authorizes a contract or transaction specified in this section.

Section 3.14 *Fees.* Each director shall not be paid a fee or paid such other compensation for his/her services as a director.

### ARTICLE IV

#### NOTICE-WAIVERS-MEETINGS

Section 4.01 *Notice, What Constitutes.* Whenever written notice is required to be given to any person under the provisions of the articles, these by-laws, or the Nonprofit Corporation Law of 1988, it may be given to such person, either personally or as follows:

1. By sending a copy thereof by first class mail, postage prepaid, or
2. By telegram, charges prepaid, to the address supplied by him/her to the corporation for the purpose of notice or
3. By email or
4. By posting a notice conspicuously on the corporate web site.

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If the notice is sent by mail or telegraph, it shall be deemed to have been given to the person entitled there when deposited in the United States mail or with a telegraph office for transmission to such person. If the notice is sent by email, the sender should CC (carbon copy) themselves in the distribution list so a copy is received by the sender. The email shall be deemed to have been given to the person entitled thereto when the CC'd message is received by the sender, unless an error message or other indication is received by the sender stating that sending has failed. Messages that have failed to be delivered or have given an indication of delivery failure must be re-attempted until successful, or notice must be given using an alternate method as described in this section of the Bylaws.

A notice of meeting shall specify the place, day and hour of the meeting and any other information required by law or these bylaws.

When a meeting is adjourned, it shall not be necessary to give any notice of the adjourned meeting or of the business to be transacted at an adjourned meeting, other than by announcement at the meeting at which such adjournment is taken.

Section 4.02 *Waivers of Notice*. Whenever any written notice is required to be given under the provisions of the articles, these by-laws, or the Nonprofit Corporation Law of 1988, 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. Except as otherwise required by Section 7.11 of these by-laws, neither the business to be transacted at nor the purpose of a meeting need be specified in the waiver of notice of such meeting.

Attendance of a person at any meeting shall constitute a waiver of notice of such meeting, except where a person attends a meeting for the express purpose of objecting, at the beginning of the meeting, to the transaction of any business because the meeting was not lawfully called or convened.

Section 4.03 *Exception to Requirement of Notice*. Whenever the language of a proposed resolution is included in a written notice of a meeting, the meeting considering the resolution may without further notice adopt it with such clarifying or other amendments as do not enlarge its original purpose.

Section 4.04 *Exception to Requirement of Notice*. Wherever any notice or communication is required to be given to any person under the provisions of the articles or these by-laws, or the Nonprofit Corporation Law of 1988, or by the terms of any agreement or other instrument or as a condition precedent to taking any corporate action, and communication with such person is then unlawful, the giving of such notice or communication to such person shall not be required and there shall be no duty to apply for a license or other permission to do so.

Section 4.05 *Regular membership meetings*. Membership Meetings of the organization shall be scheduled monthly. It is recommended that these meetings be closely coordinated with the Band

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Director and school calendar. Special meetings may be called by the President. The purpose of the Special meeting will be stated and notification made available to the membership as provided in Section 4.01, 4.02, 4.03, and 4.04 and no other business will be transacted other than that for which the special meeting has been called. General membership meetings shall be for the purpose of conveying information, status, and updates to the members regarding Band related activities and Band Booster activities. The Band Director shall be invited to these meetings and encouraged to participate and provide updates to the membership to help foster and encourage a positive working relationship between the School District, the Corporation, and Parents (members).

Exact time, date, and location of any general membership meeting shall be decided by the Executive Board and sufficient notice shall be made available to the membership as provided in Section 4.01, 4.02, 4.03, and 4.04.

**Section 4.06 *Executive Meetings.*** *Executive meetings of the organization shall be scheduled monthly and prior to any regular membership meeting. It is recommended that these meetings be closely coordinated with the Band Director's and school's calendar. Special meetings may be called by the President. The purpose of the Special meeting will be stated and notification made available to the membership as provided in Section 4.01, 4.02, 4.03, and 4.04 and no other business will be transacted other than that for which the meeting has been called. Executive meetings shall be for the purpose of conducting the business of the Corporation and voting on matters pertaining to the day-to-day operations of running the Corporation as permitted in other sections of these bylaws.*

The Band Director shall be invited to Executive meetings whenever matters involving the Band Director and Band Program are to be tabled for discussion and at such other times when Band Director liaison is required.

Exact time, date, and location of any Executive meeting shall be decided by the Executive Board and sufficient notice shall be made available to the Executive Board as provided in Section 4.01, 4.02, 4.03, and 4.04.

**Section 4.07 *Board of Director meetings.*** *The Board of Directors shall meet annually, at a minimum, and at any other time as may be dictated by the business of the corporation.*

The Band Director shall be invited to Board of Director meetings whenever matters involving the Band Director and Band Program are to be tabled for discussion and at such other times when Band Director liaison is required.

Exact time, date, and location shall be decided by the Chairman of the Board and sufficient notice shall be sent to the Directors as provided in Section 3.01, 3.02, 3.03, and 3.04.



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## ARTICLE V

### EXECUTIVE OFFICERS

Section 5.01 *Number, Qualifications and Designation.* The officers of the corporation shall be a President/Chief Executive Officer, a Secretary, a Treasurer, and such other officers, including Vice Presidents, as may be elected in accordance with the provisions of Section 5.03 of this Article, and must also be a parent or guardian of a student who participates or has participated in Fall Marching Band, Fall Colorguard, Winterguard or Indoor Percussion at the High School level. Any number of offices may be held by the same person, except that under no circumstances shall less than 3 separate persons hold Executive Officer positions so as to maintain a quorum for the purposes of voting on corporate business. Officers holding more than one office shall have only one vote in any matter brought before the Executive Committee for a vote. Officers may but need not be Directors of the corporation. The President and Secretary shall be natural persons of full age; the Treasurer may be a corporation, but if a natural person shall be of full age. The Board may elect from among the members of the board a Chairman of the Board and a Vice Chairman of the Board who shall be officers of the corporation. Only one parent or guardian of a student(s) shall hold office at any time.

Section 5.02 *Election and Term of Office.* The officers of the corporation shall be the President, the 1st Vice President, the 2nd Vice President, a Secretary and a Treasurer, except those elected by delegated authority pursuant to section 5.07 of this Article, and shall be elected annually by the general membership, at the regular general membership meeting held in the month of May of each year. Each such officer shall hold office for a period of one year commencing on June 1st following the May elections, through May 31st of the following year, or until his/her earlier death, resignation, or removal pursuant to sections 5.08, 5.09, and 5.10.

Section 5.03 *Eligible Voters.* Eligible voters must have attended 4 or more regular monthly meetings during the prior fiscal year defined in section 5.02. Attendance at each regular monthly meeting is maintained by the Secretary and eligibility to vote shall be determined by the Secretarial records.

Section 5.04 *Process and Nominating Committee.* Officers shall be nominated by a nominating committee selected by the Executive Board in March, reviewed at the Membership meeting in April and elected to office at the monthly Membership meeting held in May. The nominating committee shall nominate one or more candidates for each elective office.

At the April Membership meeting, the nominating committee will report the current candidates for office and open the floor for additional nominees. At the close of the April meeting the ballot will be set.

Additional nominations may be made from the floor immediately prior to the elections, provided consent is obtained from the person nominated. Elections shall be by paper ballot. Ballots shall be counted publicly immediately following the election and the votes tallied by the nominating committee.

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In the event only one candidate is running for an office, that office will be elected by a motion from The floor and a verbal vote permitted. In the event all offices have one candidate per office, all offices can be elected in a single vote by a motion from the floor, and a verbal vote permitted. A candidate shall be elected by a simple majority of eligible voters in attendance plus eligible absentee ballots, if any.

The nominating committee shall consist of members having a desire to serve on the committee and shall solicit nominees for Executive Office from the general membership. The nominating committee shall verify voters' eligibility using attendance records maintained by the Secretary and shall additionally be responsible for the creation and distribution of absentee ballots as required or necessary following the April Membership meeting.

*Section 5.05 Absentee Ballots.* Absentee ballots can be provided to eligible voters with adequate advance notice, but no later than 1 week prior to the date of the election.

*Section 5.06 Transfer of Executive power.* The outgoing President may be utilized in an advisory capacity as needed for one term after serving. The outgoing President does not have voting privileges at an Executive Board Meeting, unless the outgoing President is also a Director and is required to vote in his or her capacity as a Director. An orderly transition shall take place between the election date and June 1, including transfer of any and all notes, books, bank account statements, control of online accounts including email addresses, passwords, and usernames, and any other information or resource used by the outgoing administration in the performance of their duties and in their capacity as an Executive Officer. Passwords and usernames should be changed immediately after transfer to the new Officer, but must be changed no later than June 1 following the election. Bank signature cards must be updated prior to June 1 following the election.

*Section 5.07 Subordinate Officers, Committees and Agents.* The Board may from time to time elect such other officers and appoint such committees, employees or other agents as the business of the corporation may require, including one or more assistant secretaries, and one or more assistant treasurers, each of whom shall hold office for such period, have such authority, and perform such duties as are provided in these by-laws, or as the Board may from time to time determine. The Board may delegate to any officer or committee the power to elect subordinate officers and to retain or appoint employees or other agents, or committees thereof, and to prescribe the authority and duties of such subordinate officers, committees, employees or other agents.

*Section 5.08 Resignations.* Any officer or agent may resign at any time by giving written notice to the Board, or to the president or the secretary of the corporation. Any such resignation shall take effect at the date of the receipt of such notice or at any later time specified therein and, unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

*Section 5.09 Removal.* Any officer, committee, employee or other agent of the corporation may be removed, either for or without cause, by the Board or other authority which elected, retained or

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appointed such officer, committee or other agent whenever in the judgment of such authority the best interests of the corporation will be served thereby, but such removal shall be without prejudice to the contract rights of any person so removed.

Section 5.10 *Vacancies*. A vacancy in any office because of death, resignation, removal, disqualification, or any other cause, shall be filled by the Board by the officer or committee to which the power to fill such office has been delegated pursuant to section 5.09 of this Article, as the case may be, and if the office is one for which these by-laws prescribe a term, shall be filled for the unexpired portion of the term.

Section 5.11 *General Powers*. All officers of the corporation, as between themselves and the corporation, shall respectively have such authority and perform such duties in the management of the property and affairs of the corporation as may be determined by resolutions or order so the Board, or, in the absence of controlling provisions in resolutions or orders of the Board, as may be provided in these by-laws.

Section 5.12 *The President/Chief Executive Officer*. The president shall be the chief executive officer of the corporation and shall have general supervision over the activities and operations of the corporation, subject, however, to the control of the Board and the chairman. The president/chief executive officer shall sign, execute, and acknowledge, in the name of the corporation, deeds, mortgages, bonds, contracts or other instruments, authorized by the Board except in cases where the signing and execution thereof shall be expressly delegated by the Board, or by these by-laws, to some other officer or agent of the corporation; and, in general, shall perform all duties incident to the office of president/chief executive officer, and such other duties as from time to time may be assigned to him/her by the Board or the chairman.

Section 5.13 *The Vice Presidents*. The Vice Presidents, in order of succession starting with 1<sup>st</sup> Vice President, then 2<sup>nd</sup> Vice President, shall perform the duties of the President in his/her absence and such other duties as may from time to time be assigned to them by the Board, the Chairman or the President.

Primary duties of the 1<sup>st</sup> Vice President are to immediately succeed the President in the event the President cannot or does not finish the term of office and to perform the Presidential duties, through the remainder of the term. The 1<sup>st</sup> Vice President may also perform those duties on a temporary basis when directed to do so by the President. Any actions taken by the 1<sup>st</sup> Vice President acting in a temporary capacity as described above shall be deemed to be enforceable as if the action were taken by the President. The 1<sup>st</sup> Vice President is Chairman of the "Ways and Means" and "Fundraising" Committees and has the power to appoint fundraising committee chairpersons.

Primary duties of the 2<sup>nd</sup> Vice President are to immediately succeed the 1<sup>st</sup> Vice President in the event he or she cannot or does not finish the term of office and to perform the 1<sup>st</sup> Vice Presidential duties through the remainder of the term. The 2<sup>nd</sup> Vice President may also perform those duties on a temporary basis when directed to do so by the 1<sup>st</sup> Vice President. Any actions taken by the 2<sup>nd</sup>

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Vice President acting in a temporary capacity as described above shall be deemed to be enforceable as if the actions were taken by the 1<sup>st</sup> Vice President. The 2<sup>nd</sup> Vice President is Chairman of the "Chaperones" and "Uniforms Committees".

Section 5.14 *The Secretary*. The Secretary or an Assistant Secretary shall attend all meetings and shall record all the votes of the directors and/ or the Executive Committee as applicable and the minutes of the meetings and of committees of the board in a book or books to be kept for that purpose; shall record the names of attendees at all meetings and tabulate the attendance record for the yearly election of Executive Officers to determine who is eligible to vote for these officers; shall see that notices are given and records and reports properly kept and filed by the corporation as required by law; shall be the custodian of the seal of the corporation and see that it is affixed to all documents to be executed on behalf of the corporation under its seal; and, in general, shall perform all duties incident to the office of secretary, and such other duties as may from time to time be assigned to him/her by the Board, the chairman or the president/chief executive officer.

Section 5.15 *The Treasurer*. The Treasurer or an Assistant Treasurer shall have or provide for the custody of the funds or other property of the corporation and shall keep a separate bank account of the same to his/her credit as treasurer; shall collect and receive or provide for the collection and receipt of moneys earned by or in any manner due to or received by the corporation; shall deposit all funds in his/her custody as treasurer in such banks or other places of deposit as the Board may from time to time designate; shall, whenever so required by the Board, render an account showing his/her transactions as treasurer, and the financial condition of the corporation; and, in general, shall discharge such other duties as may from time to time be assigned to him/her by the Board, the chairman or the president/chief executive officer.

Section 5.16 *Officers' Bonds*. Officers shall not be required to give a bond for the faithful discharge of his /her duties.

Section 5.17 *Salaries*. The officers shall not receive a salary or other compensation for their service.

## ARTICLE VI

### LIMITATION OF PERSONAL LIABILITY OF DIRECTORS; INDEMNIFICATION OF DIRECTORS, OFFICERS AND OTHER AUTHORIZED REPRESENTATIVES

Section 6.01 *Limitation of Personal Liability of Directors*. A director of the corporation shall not be personally liable for monetary damages as such for any action taken, or any failure to take any action, unless:

(a) the director has breached or failed to perform the duties of his or her office as defined in Section 6.02 below; and

(b) the breach or failure to perform constitutes self dealing, willful misconduct or recklessness.

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The provisions of this Section shall not apply to (a) the responsibility or liability of a director pursuant to any criminal statute; or (b) the liability of a director for the payment of taxes pursuant to local, state or federal law.

### Section 6.02 *Standard of Care and Justifiable Reliance.*

(a) A director of the corporation shall stand in a fiduciary relationship to the corporation, and shall perform his/her duties as a director, including his/her duties as a member of any committee of the Board upon which he/she may serve, in good faith, in a manner he/she reasonably believes to be in the best interests of the corporation, and with such care, including reasonable inquiry, skill and diligence, as a person of ordinary prudence would use under similar circumstances. In performing his/her duties, a director shall be entitled to rely in good faith on information, opinions, reports or statements, including financial statements and other financial data, in each case prepared or presented by any of the following:

(i) One or more officers or employees of the corporation whom the director reasonably believes to be reliable and competent in the matters presented;

(ii) Counsel, public accountants or other persons, as to matters which the director reasonably believes to be within the professional or expert competence of such person;

(iii) A committee of the Board upon which he/she does not serve, duly designated in accordance with law, as to matters within its designated authority, which committee the director reasonably believes to merit confidence. A director shall not be considered to be acting in good faith if he/she has knowledge concerning the matter in question that would cause his/her reliance to be warranted.

(b) In discharging the duties of their respective positions, the Board, committees of the board and individual director may, in considering the best interests of the corporation, consider the effects of any action upon employees, upon persons with whom the corporation has business and other relations and upon communities which the offices or other establishments of or related to the corporation are located, and all other pertinent factors. The consideration of those factors shall not constitute a violation of subsection (a) of this Section.

(c) Absent breach of fiduciary duty, lack of good faith or self-dealing, actions taken as a director or any failure to take any action shall be presumed to be in the best interests of the corporation.

Section 6.03 *Indemnification in Third party Proceedings.* The corporation shall indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action, suit or proceedings, whether civil, criminal, administrative or investigative (other than an action by or in the right of the corporation) by reason of the fact that he/she is or was a representative of the corporation, or is or was serving at the request of the corporation as a representative of another corporation, partnership, joint venture, trust or other enterprise, against expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred by him/her in connection with such action, suit or proceeding if he acted in

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good faith and in a manner reasonably believed to be in, or not opposed to, the best interests of the corporation, and, with respect to any criminal action or proceeding, had no reasonable cause to believe his 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 he/she reasonably believed to be in, or not opposed to, the best interests of the corporation, and, with respect to any criminal action or proceeding, had reasonable cause to believe that his or her conduct was unlawful.

Section 6.04 *Indemnification in Derivative Actions*. The corporation shall indemnify any 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 corporation to procure a judgment in its favor by reason of the fact that he/she is or was a representative of the corporation, or is or was serving at the request of the corporation as a representative of another corporation, partnership, joint venture, trust or other enterprise against expenses (including attorneys' fees) actually and reasonably incurred in connection with the defense or settlement of such action or suit if he/she acted in good faith and in a manner he/she 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 claim, issue or matter as to which such person shall have been adjudged to be liable for negligence or misconduct in the performance of his or her duty to the corporation unless and only to the extent that the Court of Common Pleas of Butler County or 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 the Court of Common Pleas or such other court shall deem proper.

Section 6.05 *Mandatory Indemnification*. Notwithstanding any contrary provision of the articles of incorporation or these by-laws, to the extent that a representative of the corporation has been successful on the merits or otherwise in defense of any action, suit or proceeding referred to in either Section 6.03 or Section 6.04 above, he/she shall be indemnified against expenses (including attorneys' fees) actually and reasonably incurred by him/her in connection therewith.

Section 6.06 *Determination of Entitlement to Indemnification*. Unless ordered by a court, any indemnification under Section 6.03 or 6.04 above shall be made by the corporation only as authorized in the specific case upon determination that indemnification of the representative is proper in the circumstances because he/she has met the applicable standard of conduct set forth in such paragraph. Such determination shall be made:

- (a) by the Board by a majority vote of a 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, a majority vote of a quorum of disinterested directors so directs, by independent legal counsel in a written opinion.

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Section 6.07 *Advancing Expenses*. Expenses incurred in defending a civil or criminal action, suit or proceeding may be paid by the corporation in advance of the final disposition of such action, suit or proceeding as authorized by the Board in a specific case upon receipt of an undertaking by or on behalf of the representative to repay such amount unless it shall ultimately be determined that he is entitled to be indemnified by the corporation as authorized in paragraphs 1 through 3 above.

Section 6.08 *Indemnification of Former Representatives*. Each such indemnity may continue as to a person who has ceased to be a representative of the corporation and may inure to the benefit of the heirs, executors and administrators of such person.

Section 6.09 *Insurance*. The corporation shall have the power to purchase and maintain insurance on behalf of any person who is or was a director, officer, employee or agent of the corporation or is or was serving at the request of the corporation 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 capacity or arising out of such person's status as such, whether or not the corporation would otherwise have the power to indemnify such person against such liability.

Section 6.10 *Reliance on Provisions*. Each person who shall act as an authorized representative of the corporation shall be deemed to be doing so in reliance upon the rights of indemnification provided by this Article.

### ARTICLE VII MISCELLANEOUS

Section 7.01 *Contracts*. Except as otherwise provided in these by-laws, the Board may authorize any officer or officers, agent or agents, to enter into any contract or to execute or deliver any instrument on behalf of the corporation, and such authority may be general or confined to specific instances.

Section 7.02 *Deposits, Checks, and Withdrawals*. All funds of the corporation shall be deposited from time to time to the credit of the corporation in such banks, trust companies, or other depositories as the Board shall from time to time determine, approve, and designate. All such funds shall be withdrawn upon notes, bills of exchange, or checks signed by two Officers or Directors or by direct account debit or debit card where such expenditure has been authorized as outlined below.

All expenditures must be approved by a simple majority quorum vote of the Officers or Directors at a regularly scheduled Executive or Director's meeting or an unscheduled or emergency meeting providing that sufficient meeting notice is given as designated elsewhere in these Bylaws. Any Executive Officer or Director is granted the authority to sign checks or make withdrawals, except that no withdrawals of any type may be self-signed (i.e. the recipient of the funds cannot be a

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signatory on the check or other withdrawal authorization document). Signatories will typically be chosen from the executive committee.

Section 7.03 *Annual Report of the Board.* The Board shall direct the President and Treasurer to present at the annual meeting of the Board a report showing in appropriate detail the following:

- (1) The assets and liabilities, including the trust funds, of the corporation as of the end of the fiscal year immediately preceding the date of the report.
- (2) The principal changes in assets and liabilities including trust funds, during the year immediately preceding the date of the report.
- (3) The revenue or receipts of the corporation, both unrestricted and restricted to particular purposes, for the year immediately preceding the date of the report, including separate data with respect to each trust fund held by or for the corporation.
- (4) The expenses or disbursements of the corporation, for both general and restricted purposes, during the year immediately preceding the date of the report, including separate data with respect to each trust fund held by or for the corporation.

The annual report of the Board shall be filed with the minutes of the annual meeting of the Board.

Section 7.04 *Voting privileges of individuals holding general membership or participation status.* All business that comes before the corporation, except for Executive Officer elections, shall be voted on by the Executive Officers and/or the Board of Directors as outlined and detailed in various other sections of this document. Individuals not holding Director or Executive Officer positions shall not have formal voting rights for the purpose of affecting the outcome of any issue pertaining to the corporation. Informal, nonbinding votes, or surveys of the general membership can be taken from time to time and as necessary for the purpose of determining the view of the group on a specific issue, but such vote or survey shall not be a substitute for a formal Executive or Director vote on the same issue. Except for Executive Officer elections, general membership votes are nonbinding and unenforceable.

Section 7.05 *Band Director's Budget.* The Board of Director's shall request a budget from the Band Director to be submitted at the regularly scheduled annual Board of Director's meeting. The budget shall include major Band Director anticipated expenditures for the Corporation's fiscal year beginning June 1<sup>st</sup> and shall be for the purpose of evaluating current revenue and developing new revenue sources as may be necessary to support the Band and Band Programs and for funding expenditures that achieve and further the goals of the Mars Area Music Program as conveyed to the corporation by the Band Director. The Board of Directors shall evaluate, and submit the Band Director's budget to the Executive Committee.

Section 7.06 *Auditors.* The Executive Board shall be responsible for appointing Auditors to review the organization's financial records from time to time as directed by the Board of Directors and will



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provide the auditor's report to the Board upon completion. Board members and Executive Officers cannot serve as Auditors.

Section 7.07 *The Band Director.* The Band Director shall:

- Act as an advocate for the members and staff of the Mars Area High School Instrumental Music Department.
- Act as a liaison between Mars Area Band Boosters Inc and the Mars Area School District.
- Be an ex-officio, non-voting member of the Corporation.

Section 7.08 *Recordkeeping.* The Treasurer's records shall be maintained in a universally accepted and recognized format such as Excel spreadsheet or Quickbooks, or other commercially available accounting software as approved from time to time by the Board of Directors.

Section 7.09 *Voting-General Principles.* A majority of Board members, Executive Officers, or both, as applicable to and determined by the issue requiring the vote, constitutes a quorum. In absence of a quorum, no formal action shall be taken except to adjourn the meeting to a subsequent date. Passage of a motion requires a simple majority of the quorum.

Section 7.10 *Conflict of Interest.* Any member of the Board or Executive Committee having a financial interest, personal interest, official interest, conflict, or appearance of a conflict, with any matter pending before the Board or Executive Committee, that prevents or may prevent that member from acting in an impartial manner, will offer to voluntarily excuse him/herself and will refrain from discussion and voting on said item.

It is understood that Officers and Directors have students participating in programs and events that require decisions affecting their student. Officers and Directors are not automatically excluded from making motions, voting, or participating in such discussions unless the matter under consideration would result in a financial benefit to a family owned business or a business in which a family member has a significant financial interest, including but not limited to employment or stock ownership. Such entities are not prohibited from contracting with, bidding on, or providing services to Mars Area Band Boosters Inc based on normal arms length business making decisions where the resulting benefit to Mars Area Band Boosters Inc is greater than other available alternatives. The foregoing shall only preclude Officers and Directors from influencing or participating in the decision making process for the issue under consideration.

Section 7.11 *Amendment of Bylaws.* These bylaws may be amended or repealed, or new bylaws may be adopted, by vote of a majority of the Board and Executive Committee of the corporation in office at any regular or special meeting, subject to notification and other provisions outlined below. Such proposed amendment, repeal, new bylaws proposals, or a summary thereof, shall be set forth in any notice of such meeting, whether regular or special. Notice must be provided at least 30 days in advance of any meeting where a change, amendment, or repeal in the bylaws will be tabled for

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discussion or vote. A quorum of both the board of directors and the executive committee must be in attendance at the meeting otherwise a vote cannot take place and must be tabled to a future meeting.

### Article VIII

**Section 8.1 *Other Significant Corporate Documents.*** The Corporation maintains the following documents separately from these Bylaws:

1. Mission Statement
2. Chaperone Guidelines
3. Parent Orientation and Information Handbook
4. Fund Raiser Guidelines

The documents listed here are major documents within the Corporation and are listed for reference purposes to establish that they have been authored and are currently maintained by the Corporation. The current revision level of each document shall be stored at and made available for download from the corporate web site. Each document can be edited, changed, updated or deleted as may be determined from time to time by resolution of the Board, including combining separate documents into one or more comprehensive, multi-subject documents or manuals.

The authority to edit, change or otherwise update or delete documents shown in bullet points 2 through 4 lies solely with the Board of Directors unless the Board grants such power to the Executive Officers in writing. Such authority may also be revoked at any time as may be determined from time to time by resolution of the Board.

The authority to edit, change, or update the Mission Statement lies solely with the Board of Directors.

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## Revision Summary

Revision Level	Date	Brief Description of Change(s)
Original (Rev 1.01)		Met the legal requirements for formation of the corporation.
Several interim working drafts	1/2010 through 3/29/2010	Interim miscellaneous unfinalized edits. Most of these drafts consist of hand written notes, heavily commented sections, etc that never moved to a formal vote but were used as the
Draft revision 26	4/29/2010	Submitted for comment, review and specific change recommendations by the Board. This version is the first official revision that compiles all notes into one
Draft revision 29	5/19/2010	Carl Mikalauskas, Jim Wagner, Cindy Dezzutti, Lori Concelman, and Band Director Tammi Redmond in attendance. Draft revision 26 discussed and Articles 1 through 6 were finalized. Draft revision 29 created as a result of this meeting. Draft Revision 29 submitted for review and comment by email to current Officers/Directors in advance of the next meeting
Draft revision 43	5/24/2010	Carl Mikalauskas, Jim Wagner, Cindy Dezzutti, and Lori Concelman in attendance. Draft revision 32 created as a result of this meeting. Completed Draft bylaws by reviewing, editing, and updating Article 7 and creating Article 8. Punctuation, grammatical, and other similar minor issues fixed. This draft submitted to attorney Michael Pater for review and comment
2.0	10/5/2010	As submitted to the IRS for non-profit determination review. This version removes the draft revision designation. It is otherwise identical to Draft revision 43 dated

Major changes to the Bylaws will increment the revision level by 1 whole number i.e. 1.0, 2.0, 3.0. Minor changes, typographical error fixes, and formatting changes will increment the revision level by fractional numbers in tenths (X.1, X.2) or hundredths (X.1.1, X.1.2, X.1.3), etc ... The decision to increment by a whole or fractional number will be made at the time the changes are voted on by the Board. Choosing a whole or fractional increase is somewhat arbitrary and is for tracking purposes.

Note: Draft revision numbers are automatically incremented by Microsoft Word every time the document is saved, therefore there are gaps between draft revisions shown in the table above. The missing draft numbers were never presented for a vote. They were intermediate "Saves" during the edit process.