

Proposed Amendments to Bylaws

September 2020

*Recommended by the Nominating Committee and Board of Directors
for adoption by the Corporators at Annual Meeting.*

1. Provide that meeting notices may be electronic and specify that remote participation and electronic transmission of votes is permitted for the annual meeting or other meetings or votes, as allowed by law.

Rationale: While general corporate law provides for the holding of annual meetings and casting of votes by remote technology, and it has been practice for a number of years to notify Corporator members of annual meeting via electronic mail, these revisions would expressly clarify the intent of MDF's bylaws in addition to relying on such general interpretations.

Revised Text:

Article III, Section 3. Meeting Notice. Each corporator of the Foundation shall be given notice of every regular or special meeting of the Foundation's corporators which notice shall be in writing, setting forth the purpose, date, time and place of the meeting, and shall be delivered, either personally or by mail or electronic mail, not less than ten (10) nor more than fifty (50) days prior to such meeting. If mailed, such notice shall be deemed to be delivered when deposited in the US Mail addressed to the member at his address as it appears on the records of the corporation, with postage thereon prepaid. If via electronic mail, the secretary shall take reasonable measures to ensure the delivery and receipt of such mail. A waiver in writing of any notice of meeting signed by a member, whether before or after the time stated in said waiver for holding such meeting, shall be deemed equivalent to a notice required to be given to any member.

Article III, Section 6 [NEW]. Remote participation in annual and special meetings; electronic transmission of votes. Members may participate in any meeting of members or corporators by means of remote communication to the extent the board of directors authorizes subject to any guidelines and procedures adopted by the board and in conformity with any statutory requirements. The board of directors may determine that some or all votes by members may be conducted by electronic transmission under procedures established by the corporation. A vote conducted by electronic transmission has the same effect as an in-person vote or a vote by proxy.

Editor's Note: current legal requirements for remote voting include (1) that the corporation has implemented reasonable measures to A. To verify that each person participating remotely is a corporator; and B. To provide the corporator a reasonable opportunity to participate in the meeting and to vote on matters submitted to the corporators, including an opportunity to communicate and to read or hear the proceedings of the meeting, substantially concurrently with the proceedings.

2. Increase the maximum size of the Board from 15 up to 19 directors; and clarify that half of the elected directors shall be from the private sector and half from the public & nonprofit sector to conform with MDF's enabling statute.

Rationale: As Maine's economy, demographics, and leadership grow increasingly diverse, it is important that the MDF Board be able to equitably reflect a healthy cross-section of industries, geographies, expertise, talents, and attributes, including age, gender and race. With small turnover on the Board in 2020 and 2021, this is an opportune time to strategically expand and diversify director composition. Expanding the maximum does not require the Nominating Committee or corporators to reach the ceiling immediately but may thoughtfully do so over time.

Revised Text:

Article IV, Section 1. Number, Qualifications, and Terms. The Board of Directors shall consist of not less than 15 nor more than 19 directors. At the annual meeting, the corporators shall elect an even number of directors, numbering- not less than 12 nor more than 16, directors from among the corporators, provided that 7half of such directors shall be elected from among the private sector corporators and 5half of such directors shall be elected from among the public sector corporators. Each director elected shall serve until the next succeeding annual meeting and until his successor shall have been elected and qualified or until his earlier resignation, removal from office, death, or incapacity. The Governor shall appoint 2 directors from among the ex officio corporators. Each director so appointed shall serve for one year and until his successor shall have been appointed and qualified or until his earlier resignation, removal from office, death or incapacity. No person shall serve as a director for more than 5 full years in succession. There shall be a chairman, a vice chairman and a treasurer elected by the corporators from among the Board of Directors. The President of the Foundation shall be appointed by the directors so elected or appointed and shall become a director and chief executive officer of the Foundation. The President shall not be appointed from among the other directors.