

**BY-LAWS**  
**OF**  
**SHINZEN FRIENDSHIP GARDEN, INC.**

**Includes Amendments and Changes adopted at Annual Membership Meetings of July 1995, September 2002, September 2004, September 2010, and November 2011.**

**ARTICLE I**

**Organizational Matters**

**Section 1: Name**

The name of this organization, which is a non-profit corporation, organized and existing under the laws of the State of California, is “SHINZEN FRIENDSHIP GARDEN, INC. which will hereafter be referred to as the Corporation.

**Section 2: Principal Office**

The principal office for the transaction of the business of the Corporation shall be in the City of Fresno, State of California, at such location as may be determined by the Board of Directors. The Board of Directors may change the principal office from one location to another in the greater Fresno area. Any change of location of the principal office shall be noted by the President on these By-laws opposite this Section, or this Section may be amended to state the new location: Effective April 1, 2016, Shinzen Friendship Garden, Inc., leases office space at DeMera, DeMera, Cameron, LLP 5080 N. First St., Fresno, CA 93711, as work space for staff and maintenance of Corporation records.

**Section 3: Seal**

The Corporation shall have a seal, containing the name of the Corporation followed by the date of incorporation.

**Section 4: Vision Statement**

Shinzen Garden will be an exemplary North American Japanese Garden and an inspiring cultural destination.

**Section 5: Memo of Understanding with City of Fresno**

The Memo of Understanding with the City of Fresno, updated as of June 2011, outlines the purpose, processes, and roles of the Corporation and the City. It states the purpose of the Corporation is to assist the City in developing, maintaining, preserving, and promoting the Garden as Japanese Garden, consistent with the Vision of the Garden, situated within the boundaries of Woodward Park, a regional park, Fresno, California. The Corporation shall be empowered to enter into, modify, amend and terminate such contracts, agreements, memoranda of understanding, leases or other undertakings with the City of Fresno concerning the Japanese

Garden and its operations, as shall be in the discretion of the Board of Directors, determined to be in the best interest of the Corporation and in furtherance of this purpose. **See MOU for Shinzen Friendship Garden and City of Fresno, PARCS Department, *Appendix I*.**

**Section 6: Memo of Understanding Golden State Bonsai Federation for the Clark Bonsai Collection at Shinzen**

The Shinzen Friendship Garden, Inc., as the Corporation, and the Golden State Bonsai Federation entered in to a Memo of Agreement on August 1, 2014 for the placement of the Golden State Bonsai Federation Clark Bonsai Collection at Shinzen Friendship Garden. **See GSBF & Shinzen Friendship Garden, Inc., MOU, *Appendix II*.**

**ARTICLE II**

**Members**

**Section 1: Membership**

The membership of this Corporation shall consist of such persons and organizations as shall have paid the dues for the particular class of membership as shall from time to time be established by the Board of Directors. **See Membership Policies & Processes. *Appendix III*.**

**Section 2: Responsibilities of Membership**

The members of the Corporation, as defined in Membership Policies & Processes, shall have voting rights and responsibilities for the Corporation regarding the Corporation by-laws.

Memberships may not be transferred and members shall have no property rights in the property of the Corporation.

**Section 3: Responsibilities of Corporation**

- a.) The Corporation shall keep membership records. These records will indicate the amount of paid membership dues per member.
- b.) Membership Cards: The Corporation will issue membership cards to members and maintain updated membership records.

**Section 4: Rights of Members**

- a.) Members of the Corporation have the privilege of holding office as a member of the Board of Directors of Shinzen Friendship Garden, Inc.
- b.) Members have the right to vote on the election of new Board members and by-laws of the Corporation. No member may cast more than one vote on any matter submitted to the membership. Voting may be in person, by proxy, or by written ballot.
- c.) Membership Rights Limitation:

Subject to the rights of members under Article III, Sections 1 through 5, inclusive, of these By-laws, the Board may adopt, amend, or repeal By-laws unless the action would materially and adversely affect the members' rights as to voting or transfer. When these by-laws or California law requires amendment by vote of the membership such vote may be taken at any duly called meeting of the members at which a Quorum exists by a majority of the members present and voting.

### **ARTICLE III**

#### **MEETINGS OF THE GENERAL MEMBERSHIP**

##### **Section 1: Required Actions of General Membership:**

The General Membership of Shinzen Friendship Garden, Inc., shall approved changes to the Corporation By-Laws through electronic and mail ballots. Notice of any vote for approval shall be in writing and shall be given at least twenty day (20) in advance in the case of notice by personal delivery, electronic mail, or first class mail prior to the required voting timeline. Documents pertaining to the Board approved changes shall be included in all electronic and first class mail notices. Results of the vote for changes to the by-laws shall be reported to the membership electronically or by personal delivery or first class mail.

##### **Section: 2: Special meetings:**

Special meetings of members may be called at any time by the President, Board of Directors, or by five percent (5%) of the members of the Corporation. The purpose and any actions required, location and time of a called Special Meeting shall be identified in the notice of call to the membership.

##### **Section: 3: Annual Report**

The Board of Directors will annually report to the Membership of the Corporation the names of new members of the Board of Directors and their terms, officers of the Corporation and Staff, information regarding the financial status of the Garden, current accomplishments, activities and any changes, and future financial, maintenance, development and management goals. This report will be sent electronically or by first or third class mail to the Members of the Corporation.

The annual meeting of members and all other meetings of members shall be held at the Shinzen Friendship Garden, unless the Board of Directors shall designate some other location in the greater Fresno Area.

##### **Section 4: Notice of Meetings**

Notice of any meeting of the general membership shall be in writing and shall be given at least ten (10) days, in the case of notice by personal delivery, electronic mail, or first class registered mail, or at least twenty (20) days, in the case of notice by electronic mail, first class mail or bulk

mail, but not more than ninety (90) days, before the meeting date. The notice shall be addressed to each member entitled to vote, at the last known address of that member.

The notice of any meeting shall specify the place, day and hour of the meeting; and in the case of a special meeting, the general nature of the business to be transacted at the meeting; and in the case of a regular meeting, those matters which the Board intends to present for action; and in the case of any meeting at which Directors are to be elected, the names of any nominees known at the time of the meeting or any by-law changes shall be delivered electronically or via first class mail at least ten (10) days prior to the meeting or at least twenty (20) days, in the case of notice by first class or bulk mail, but not more than ninety (90) days, prior to the meeting date.

**Section 5: Quorum**

The presence in person or by proxy of twenty-five (25) members, or twenty-five per cent (25%) of the voting membership, whichever is less, shall constitute a quorum for the transaction of business. The members present at a duly called or held meeting, at which a quorum is present, may continue to do business until adjournment, even if enough members have withdrawn to leave less than a quorum; if any action taken (other than adjournment) is approved by at least a majority of the members required to constitute a quorum.

**ARTICLE IV**

**Directors**

**Section 1: Powers**

Except as otherwise provided by the Articles of Incorporation or by the By-laws of the Corporation and the Laws of the State of California, the corporate powers of the Corporation shall be exercised, its property managed, and its affairs conducted by the Board of Directors.

**Section 2: Number and Qualifications of Directors**

The authorized number of Directors of this Corporation shall 15.

**Section 3: Election and Term of Office - Qualifications of Directors**

- a.) Each Director is elected for a 3 year term of office.
- b.) No Director may serve more than two consecutive terms, unless elected as an officer of the Board and then such Director may complete the term of service as an officer.
- c.) Directors who have “termed out” may be nominated to serve a one year term in order to complete a project, finish a term of office, or fulfill a vacant Director position.
- d.) “Termed out” Directors may be nominated to return to serve another term after a retirement of 1 year.

- e.) A student who is an active volunteer or seeks experience in understanding the workings of a non-profit Board may request the opportunity to serve as an “Associate Board Member” for a one year term with approval of the Board.

A Director who has been elected to fill an unexpired term of someone who has resigned or been removed from the Board shall be allowed to finish the unexpired term. That Director may then be nominated to fill a 3 year term and may serve two consecutive 3 year terms.

Directors who have completed their terms of service and are in good standing may be designated with Emeriti status, an honorary title recognizing their contributions. **See Emeriti Policy, Appendix IV.**

#### **Section 4: Vacancies**

Vacancies in the Board of Directors may be filled by a majority vote of the remaining Directors, and each Director so elected shall hold office for the unexpired term of his predecessor; and until his successor is elected at an annual or special meeting of members.

A vacancy or vacancies in the Board of Directors shall be deemed to exist in case of the death, retirement, resignation, or removal of any Director, or if the authorized number of Directors be increased, or if the members fail at any annual or special meeting of members at which any Director or Directors are elected, to elect the full authorized number of Directors to be voted for at such meeting.

#### **Section 5: Meetings**

At the next scheduled meeting following each annual meeting of members, the Board of Directors shall hold a regular meeting for the purpose of organization, election of Officers, implementation of effective date of any by-law changes, and the transaction of other Corporation business.

Other regular meetings of the Board of Directors shall be held monthly unless otherwise determined by the Board.

#### **Section 6: Special Meetings**

Special meetings of the Board of Directors for any purpose or purposes shall be held whenever called by the President, or any three members of the Board. Written notice of the time and place of special meetings shall be sent to each Director by mail addressed to him at his/her postal address, or by his/her email as shown upon the records of the Corporation. Such notice shall be sent four (4) days prior to the time of the meeting.

#### **Section 7: Waiver of Notice**

The transaction of any meeting of the Board of Directors, however called and noticed, or whenever held, shall be as valid as though had at a meeting duly held after regular call and

notice, if a quorum be present, and if either before or after the meeting each of the Directors not present sign a written waiver of notice or a consent to holding such meeting or an approval of the minutes thereof. All such waivers, consents or approvals, shall be filed with the corporate records, or made a part of the minutes of the meeting.

**Section 8: Quorum**

A majority of the authorized number of Directors shall constitute a quorum for the transaction of business, except to adjourn, as hereinafter provided. Every decision or act made or done by a majority of the Directors present at a meeting duly held, at which a quorum is present, shall be regarded as the decision and act of the Board of Directors unless a greater number is elsewhere required by these By-laws or by the laws of the State of California.

**Section 9: Adjournment**

A majority of the Directors present, whether or not a quorum is present, may adjourn any meeting to another time and place.

**Section 10: Action without a Meeting**

Any action that the Board is required or permitted to take may be taken without a meeting if a majority of members of the Board consent in writing or by email to the action; provided however, that the consent of any Director who has a material financial interest in a transaction to which the Corporation is a party and who is an “interested Director” as defined in Section 5233 of the California Corporation Code shall not be required for approval of that transaction. Such action by written consent shall have the same force and effect as any other validly approved action of the Board. All such consents shall be filed with the minutes of the proceedings of the Board.

**Section 11: Notice of Adjournment**

Notice of the time and place of holding an adjourned meeting need not be given to absent Directors if the time and place be fixed at the meeting so adjourned.

**Section 12: Responsibilities of Members of the Board of Directors;**

**A. Attendance**

- 1) Directors must serve as leaders of the Corporation as Officers, Committee Chairs, and/or Committee members during their term of service.
- 2) Directors are expected to attend all Board of Directors meetings, scheduled and called special meetings. If absence is necessitated, the Director shall notify the President in advance if possible.
- 3) Records of Directors meeting attendance will be maintained.) Failure to attend 3 consecutive regular meetings of the Board may be cause for dismissal from the Board

of Directors pending a majority vote favoring removal from the Board of Directors. Written notice shall be provided to said Director. In the instance of a needed prolonged absence from the Board due to health or other issues, the Board Member is to submit a request for Administrative Leave from the Board for an identified period of time. Such request will be considered and approved by the Board.

- 4) Whenever any Director has been absent from any special meeting of the Board of Directors, an entry in the minutes to the effect that notice has been duly given to him/her shall be conclusive evidence that due notice of such special meeting was given to such Director as required by law and the By-laws of the Corporation.
- 5) It is the responsibility of the Director if absent from a meeting to familiarize themselves with the discussions and actions of the missed meeting and by obtaining documents distributed at the meeting.

**B. Duties and Role:**

- 1) Directors must be members of the Garden, having paid dues during their terms of service.
- 2) Each Director must serve on Standing Committees of the Board. The Director may choose the committees that interest him/her. If no choice is made, following consultation, the President of the Board will appoint the Director to the committees.
- 3) New Directors must participate in a Board Orientation review and educational session.
- 4) Directors will support Garden Events by volunteering and attending said events.
- 5) Directors are to serve as advocates for the Garden, to support and promote the Garden and recruit for new Garden members. Directors will adhere to all Operating Policies of the Corporation.
- 6) Directors must donate or raise funds to meet an annual minimal donation amount determined by the Board.

**Section 13: Compensation**

The Directors shall receive no compensation for their services as Directors, except as reimbursement for expenditures incurred on behalf of the Corporation. **See Financial Policies for Board of Directors. Appendix V**

**Section 14: Contracts with the Corporation, Directors and Officers:**

No Director or Officer of this Corporation, nor any other corporation, firm, association, or other entity in which one or more of this corporation's Directors or Officers are directors or have a material financial interest, shall be interested, directly or indirectly, in any contract or other

transactions with this Corporation, unless (i) the material facts regarding such Director's or Officer's financial interest in such contract or transaction and/or regarding such common directorship, officership, or financial interest are fully disclosed in good faith and are noted in the minutes, or are known to all members of the Board prior to consideration by the Board of such contract or transaction; (ii) such contract or transaction is authorized in good faith by a majority of the Board by a vote sufficient for that purpose without counting the vote or votes of such interested Director(s); (iii) prior to authorizing or approving the transaction, the Board considers and in good faith determines after reasonable investigation under the circumstances that the Corporation could not obtain a more advantageous arrangement with reasonable effort under the circumstances; and (iv) this Corporation enters into the transaction for its own benefit, and the transaction is fair and reasonable to this Corporation at the time the transaction is entered into.

The provisions of this Section do not apply to a transaction which is part of an educational or charitable program of the Corporation if it; (i) is approved or authorized by the Corporation in good faith and without unjustified favoritism; and (ii) results in a benefit to one or more Directors or Officers or their families because they are in the class of persons intended to be benefited by the educational or charitable program of this Corporation.

**Section 15: Loans with the Corporation, Directors and Officers:**

The Corporation shall not make any loans of money or property to or guarantee the obligation of any Director or Officer, unless approved by the Attorney General of the State of California; provided however, that the Corporation may advance money to a Director or Officer of the Corporation for expenses reasonably anticipated to be incurred in the performance of the duties of such Director or Officer, provided that in the absence of such advance, such Director or Officer would be entitled to be reimbursed for such expenses by the Corporation.

**ARTICLE V**

**Committees**

**Section 1: Committees of the Board**

The Board of Directors' business and activities are assigned to Standing Committees of the Board. Each Director will serve on Standing Committees of the Board, unless they are serving as an officer of the Corporation. Committee membership is open to all members of the Corporation.

Any committee, to the extent provided in the resolution of the Board, shall have all the authority of the Board, except that no committee, regardless of Board resolution, may:

- a) Fill vacancies on the Board of Directors or in any committee;
- b) Amend or repeal by-laws or adopt new by-laws;
- c) Amend or repeal any resolution of the Board of Director which by its express terms is not so amendable or appealable;



- d) Appoint any other committees of the Board of Directors or the members of these committees;
- e) Approve any transaction
  - (1) To which the Corporation is a party and one or more Directors have a material financial interest (see Financial Policies, Appendix IV; or
  - (2) Between the Corporation and one or more of its Directors, or between the Corporation or any person in which one or more of its Directors have a material financial interest.

**Section 2: Standing Committees: See Standing Committee Policies and Process, Appendix VI**

A.) The Board of Directors may establish additional **Standing Committees** for the purpose of fulfilling the Vision, Mission and Goals of the Board. Such Standing Committees will be filled by Board of Director Members, Staff, Corporation Members and interested members of the Community.

**ARTICLE VI**

**Officers and Agents**

**Section 1: Officers**

The Officers of the Corporation shall be a President, a Vice President-President-Elect, a Treasurer, a Secretary, and a Liaison to the GSBF Clark Bonsai Collection. The immediate Past President serves on the Executive Committee for one year at the request of the President.

**Section 2: Election**

The Officers of the Corporation, except such officers as may be appointed in accordance with the provisions of Section 3 or Section 5 of this Article, shall be elected annually by the Board of Directors and each shall hold office until a successor shall be elected, unless prior thereto the term of such Officer shall have been ended by death, resignation, removal or other disqualification.

**Section 3: Subordinate Officers**

The Board of Directors may appoint from time to time such other officers as the business of the Corporation may require, each of whom shall hold office for such period, have such authority and perform such duties as are provided in the By-laws of the Corporation or as the Board of Directors may from time to time determine.

**Section 4: Removal and Resignation**

Any officer, including any subordinate officer, may be removed, either with or without cause, by a majority of the Directors at the time in office, at any regular meeting of the Board, or at a special meeting thereof called for that purpose, provided, however, that when the Board of Directors has conferred upon an officer of the corporation the power to remove a subordinate officer or officers, such subordinate officer or officers may be removed by the officer of the Corporation upon whom such power has been conferred, without any further action by the Board of Directors.

Any officer or subordinate officer may resign at any time, upon giving such written notice to the Board of Directors or President of the Corporation as the Board of Directors may determine.

**Section 5: Vacancies**

A vacancy in any office because of death, resignation, removal, disqualification, or other cause shall be filled in the manner prescribed in the By-laws for regular appointment to such office.

**Section 6:** The Officers of the Shinzen Board of Directors, elected annually by the Board of Directors are: **See Officers of the Board of Directors, *Appendix VII***

- a. President
- b. Vice President & President-Elect
- c. Treasurer
- d. Secretary:
- e. Liaison of the Bonsai Collection
- f. Past President

**ARTICLE V11**

**Miscellaneous**

**Section 1: Shinzen Endowment Fund**

The Board of Directors approved the establishment of the Shinzen Endowment Fund, September 13, 2007 to maintain, manage and promote a perpetual Fund for the long term support, preservation and awareness and development of the Garden.

The Board shall establish a Fundraising and Development Committee to work with the Endowment Fund. **See Shinzen Friendship Garden Endowment Fund. *Appendix VIII***

**Section 2: Contracts**

The Board of Directors, except as in the By-laws otherwise provided, may authorize any officer or officers, agent or agents, to enter into any contract or execute any instrument in the name of and on behalf of the Corporation, and such authority may be general or confined to specific instances; and unless so authorized by the Board of Directors, no officer, agent or employee shall

have any power or authority to bind the Corporation by any contract or engagement or to pledge its credit to render it liable for any purpose or to any amount.

**Section 3: Rules and Regulations**

The Board of Directors may from time to time adopt such rules and regulations as it may deem advisable, not inconsistent with these By-laws or the Articles of Incorporation.

**Section 4: Distribution or Net Earnings**

No part of the net earnings of the Corporation shall inure to the benefit of, or be distributable to its members, officers or other persons, except that the Corporation shall be authorized and empowered to pay reasonable compensation for services rendered and to make payments distributions in furtherance of the purposes for which the Corporation was formed.

**Section 5: Political Activities**

No substantial part of the activities of the Corporation shall be the carrying on of propaganda, or otherwise attempting to influence legislation, and the Corporation shall not participate in, or intervene in (including the publishing or distribution of statements) any political campaign on behalf of any candidate for public office. Notwithstanding any other provision of these By-laws or of the Articles of the Corporation, the Corporation shall not carry on any other activities not permitted to be carried on (a) by a corporation exempt from Federal Income Tax under Section 501 (c) (3) of the Internal Revenue Code of 1954 (or the corresponding provision of any future United States Internal Revenue Law) or (b) by a corporation, contributions to which are deductible under Section 170(c)(2) of the Internal Revenue Code of 1954, (or the corresponding provision of any future United States Internal Revenue Law).

**Section 6: Distribution of Assets Upon Dissolution**

Upon the dissolution of the Corporation, the Board of Directors shall, after paying or making provision for the payment of all the liabilities of the Corporation, dispose of all of the assets of the Corporation, exclusively for the purpose of the Corporation in such manner, or to such organization or organizations organized and operated exclusively for charitable, educational or scientific purposes as shall at the time qualify as an exempt organization or organizations under Section 501 (c)(3) of the Internal Revenue Code of 1954 or (the corresponding provision of any future United States Internal Revenue Law) as the Board of Directors shall determine. Any such assets not so disposed of shall be paid over to the City of Fresno, a Municipal Corporation.

**Section 7: Indemnification**

**(A) Right of Indemnification**

To the fullest extent permitted by law, this Corporation shall indemnify its Directors, officers, employees, and other persons described in Section 5238(a) of the California Corporation Code, including persons formerly occupying any such position, against all expenses, judgments, fines, settlements and other amounts actually and reasonably **incurred by them in** connection with a

“proceeding,” as that term is used in that Section, and including an action by or in the right of the Corporation, by reason of the fact that the person is or was a person described in that section. “Expenses,” as used in this By-law, shall have the same meaning as in Section 5238(a) of the California Corporations Code.

**(B) Approval of Indemnity**

On written request to the Board by any person seeking indemnification under Section 5238(b) or Section 5238(c) of the California Corporation Code, the Board shall promptly determine under Section 5238(e) of the California Corporation Code whether the applicable standard of conduct set forth in Section 5238(c) has been met and, if so, the Board shall authorize indemnification. If the Board can not authorize indemnification because the number of Directors who are parties to the proceeding with respect to which indemnification is sought prevents the formation of a quorum of Directors who are not parties to that proceeding, the Board shall promptly call a meeting of members. At that meeting, the members shall determine under Section 5238(e) of the California Corporation Code whether the applicable standard of conduct set forth in Section 5238(b) or Section 5238(c) has been met and, if so, the members present at the meeting in person or by proxy shall authorize indemnification.

**APPENDICES: Board of Directors**

**Appendix 1: Memo of Understanding with the City of Fresno - approved**

**Appendix II: Memo of Understanding with Golden State Bonsai Federation - approved**

**Appendix III: Membership Policies and Processes: approved**

**Appendix IV: Emeriti Policy: approved**

**Appendix V: Financial Policies & Processes: awaiting approval by Board**

**Appendix VI: Standing Committees: awaiting approval Board**

**Appendix VII: Officers of the Board of Directors, Shinzen Friendship Garden, Inc. awaiting approval by the Board**

**Appendix VIII: Shinzen Friendship Garden, Inc., Endowment Fund: approved**

**Appendix IX: Operational Policies: Community Benefit Organizations, Safety, Non-Discrimination and Harassment Policy, Gift Policy – approved**