

Statutes (~~Constitution~~ Bylaws) of The Lake Chapala Society A.C.

~~This The Constitution Statutes~~ of the Lake Chapala Society A.C. ~~is~~ are effective as of December 5, 1979 (the date that the society was constituted) ~~and supersedes and rescinds all previous versions of our Constitution and/or Bylaws.~~ Bylaws last amended January 31, 2022. With proposed amendments for the August 20, 2024 Extraordinary Meeting.

Explanation of change in introduction: Recommendations of Notario #2 to comport with Mexican law.

Article 7. ANNUAL GENERAL MEETING (AGM)

Section 7.02 Responsibilities of AGM

Members at the AGM have the following ~~responsibilities~~ tasks:

4) To ratify the appointment of an independent (~~external or internal~~) financial auditor.

Explanation of Section 7.0.2 (4): There are no cases where the use of an internal financial auditor would meet the requirement of being “independent,” so striking the text as unnecessary.

Article 8. EXTRAORDINARY MEETING (EM)

Section 8.05 Time and Location of an EM

1) An EM must be held within 45 days of the receipt by the President of a written request under Section 8.02, stating the purpose(s) of the request.

Explanation of Section 8.05 (1): This addition clarifies that it is the responsibility of the President to convene an Extraordinary Meeting upon the receipt of a valid request. Requires requestors to state the requested purpose(s) of the EM.

Article 9. BOARD OF DIRECTORS

Section 9.02 Power of Attorney (Poder General)

1) The power of attorney is granted to the President, who may ~~reassign it~~ delegate and/or grant a specific power of attorney within his or her authority to any of the following: Vice President, Secretary, Treasurer, Executive Director. In the event the President is temporarily unable to fulfill the duties of the office to reassign the Power of Attorney, the Board of Directors may reassign the Power of Attorney as allowed above.

Explanation of Section 9.02 (1): This addition was recommended by Notario #2 to comport with Mexican law regarding the temporary transfer of Power of Attorney when the President is unable to do so.

Section 9.04 Obligations of the Board of Directors

c) Personnel

Section 9.04 (c) (4) To authorize the hiring and dismissal of ~~other personnel~~. Board-identified senior-level staff positions, and to authorize the hiring of unbudgeted permanent or temporary positions.

Explanation of Section 9.04 (c) (4): *This change removes the requirement that the Board authorizes all hiring and dismissal actions for LCS personnel, limiting the Board's authority to only the Executive Director and those senior-level staff positions identified by the full Board of Directors because of their importance to the organization. Positions not falling under the Board's approval authority would be under the authority of the Executive Director.*

This change also improves fiscal controls in that it requires Board approval for the hiring of any permanent or temporary positions not authorized in the current budget.

Section 9.04 f) Terms of Office

1) Terms of Board members are staggered and ~~All terms~~ are 2 years in duration, unless the individual is elected for a shortened term. Shortened terms of one year or longer are counted toward any term limits for that position. Shortened terms of less than one year are not counted toward the 2 year duration term.

Explanation of Section 9.04 (f) (1): *This change clarifies terms of office for Board members and officers. It provides for special circumstances that interrupt or delay the start of a term of office, or if a Board member or officer is appointed mid-term to fill a vacancy.*

It also establishes that serving in a position for a shortened term of one year or longer counts toward a position's term limit, while serving less than one year does not.

These provisions for shortened terms will prevent the confusion of recent years allowed by conflicting articles stating both that all terms of office are two years in duration and that terms begin at the end of the AGM (Section 9.04 (f) (4)). This change ensures that if an AGM is ever again delayed from being held in person or virtually (such as in a natural disaster), that the beginning and timely ending of the terms are clearly understood.

Section 9.04 f) Terms of Office

3) The maximum term for the position of President is 2 consecutive terms, ending when a new president is elected at an Annual General Meeting or an Extraordinary Meeting. Shortened terms of one year or longer are counted toward the term limit for that position. Shortened terms of less than one year are not counted. If the election of a new president is delayed, the current president may serve beyond the regular end of the term until a new president is elected, to ensure continuity of leadership.

Explanation of Section 9.04 (f) (3): *This addition allows for the same provision stated above regarding truncated terms. The officer positions of Vice President, Secretary and Treasurer, are allowed three consecutive terms. However, the office of the President is limited to two consecutive terms.*

In the event an AGM is ever again delayed from being held in person or virtually (such as in a natural disaster, political upheaval or act of God), LCS could be put in the position of being without a President or Vice President until an AGM or Extraordinary meeting could be held. Allowing the then-President to continue with their legally required duties in a time of crisis would provide continuity in leadership until the next election.

This also establishes that serving in a position for a term of less than one year does not count against the term limit for that position. If the membership approves Amendment #1 and elects a new LCS President to a seven-month term at this EM, the new President would be eligible to run for two more consecutive two-year terms.

Article 9.04 g) Elections:

Section 9.04 (g) (3) In the event of catastrophic circumstances that prevent the timely holding of the Annual General Meeting during the third week of March, a rescheduled AGM or Extraordinary Meeting will be called for the earliest feasible date. Officers elected at this delayed AGM or EM will have shortened terms of office that will end at the AGM for their term of office.

***Explanation of Section 9.04 (g) (3):** Provides specific instructions for elections to be held if extraordinary circumstances delay the AGM (such as natural disaster). Ensures that the terms of office of newly Board members and officers are truncated accordingly.*

This will avoid the problems that arose because of the current Constitution's separate, conflicting clauses that listed both "two year terms" and that terms begin at the end of the AGM. This led to differing interpretations of when the President's term rightly ended after an AGM and the start of the President's term was delayed by the pandemic.

Section 9.04 (h) (1) Vacancy

Section 9.04 (h) (1) (a) In the event of a vacancy in the office of President, the Vice-President becomes the President and fulfills the remainder of the term, unless otherwise approved by the Board. In such a case, the Board will hold an official Board meeting to approve the above with a qualified majority. This Board act must be formalized in the Notary's Protocol and registered.

***Explanation of Section 9.04 (h) (1) (a):** Provides the Board with flexibility in the event the Vice President is willing to temporarily elevate to the Presidency but requests that a new President be elected before the end of the regular term. Allows the individual to return to the Vice President position upon the election of a new President. Provision for formalization and registration in the Notary's Protocol recommended by Notario #2 to comport with Mexican law.*

Section 9.04 (h) (1) (b) Upon the request for a leave of absence by the President or if the President is temporarily incapacitated and unable to fulfill the duties of the office, the Vice-President shall serve as Acting President until the President returns to his or her duties.

***Explanation of Section 9.04 (h) (1) (b):** Provides for temporary elevation of the Vice President to fill a temporary unavailability of the President.*

Section 9.04 (h) (1) (c) Upon a positive vote of the Board of Directors, an Interim/Acting President has the full obligations, rights and responsibilities of the President (see Section 9.02, Power of Attorney).

Explanation of Section 9.04 (h) (1) (d): Clarifies an Interim or Acting President's obligations and responsibilities are the same as those for the President. Recommended by Notario #2 to comport with Mexican law.

Section 9.04 (k) (3) (a) Any LCS member may speak at a Board meeting provided a request has been made to the President ~~or acting Chair~~ in writing and stating the subject and purpose of the request not less than 24 hours prior to the Board meeting.

Explanation of Section 9.04 (k) (3) (a): Clarifies that the request to speak must be made to the President, as there is no "acting Chair" position.

Section 9.04 (k) (3) (b): Speaker requests, including those received after the agenda is sent for posting, will be heard under a "Member Comments" item on the agenda.

Explanation of Section 9.04 (k) (3) (b): This provision allows Board agendas to be posted timely without listing specific added speakers' names and topics.

Section 9.04 (k) (3) (c): Unless otherwise agreed to by the Board, a speaker is limited to 5 minutes for their presentation and to the topic(s) submitted as the purpose of the request.

Explanation of Section 9.04 (k) (3) (c): This provision sets reasonable time and topic limits for speakers to ensure the timely flow of the Board meeting.

Section 9.04 (k) (3) (d): The Board may vote to allow exceptions to the above provisions.

Explanation of Section 9.04 (k) (3) (d): This provision allows the Board flexibility to allow speakers extra time, to speak on additional topics, ask follow-up questions, and invite additional speakers from whom the Board would like information.

Article 10. BOARD COMMITTEES

Section 10.01 Executive Committee

2) The Executive Committee is convened for the following purposes:

b) **(1)** to regularly evaluate ~~annually~~ the performance of the Executive Director and to submit its recommendations not less than annually to the Board of Directors for their formal performance evaluation and approval of the Executive Director's remuneration under Article 9.04 (c) (2);

Explanation of Section 10.01(b) (1): Because of the broad scope and importance of the Executive Director's position in the organization, limiting performance evaluation to annually is insufficient oversight. The LCS Board is committed to providing mentoring, guidance and training to the new Executive Director to] ensure her or his success and thriving in the new position and in leading our organization.

b) (2) The Executive Committee may recommend that the Board appoint a member of Board or their designee to provide mentoring and/or direct oversight and supervision of the Executive Director, reporting back to the Executive Committee and the full Board as directed. In this event, the Executive Committee will prepare a document detailing the scope of the mentoring and/or direct oversight and supervision, as well as the expectations for the Executive Director. This will include a requirement for the Executive Director to fully cooperate and provide all requested information. This document may be revised by the Executive Committee as needed. Failure of the Executive Director to sign the document or comply with its terms will be grounds for discipline, up to and including immediate termination by the Board.

Explanation of Section 10.01(b) (2): The Constitution requires the Executive Committee to evaluate the performance of the Executive Director and submit its recommendations to the full Board of Directors. However, there is no provision for evaluation or oversight of an Executive Director who, for any reason, may not be fully meeting the Board's expectations.

In such a case, the Executive Committee is authorized to recommend to the full Board an individual charged to provide mentoring, oversight, and supervision to the Executive Director, make recommendations for additional training and/or coaching, and other steps to ensure the Executive Director's success.

Because management of any issues with the performance of the Executive Director is a personnel issue requiring confidentiality, such reports will be made to the Executive Committee, which will act upon and use this information for performance evaluations and corrective measures as necessary including performance management plan(s), making confidential reports to the Board as appropriate.

The documentation section recommended by Notario #2 to comport with Mexican law.

Section 10.02 Standing Committees

1) The Board of Directors establishes Standing Committees. The establishment of committees does not cede authority and control by the Board to that committee. The Board has ultimate responsibility for making decisions recommended by a committee.

Explanation of Section 10.02 (1): Clarifies that the Board retains ultimate responsibility for making decisions recommended by a Standing Committee.

Section 10.03 Nominating Committee

10.03 (1) (a) A Nominating Committee must be established annually by the Board of Directors no later than 120 days prior to the AGM for the express purpose of seeking applicants and for receiving, vetting and announcing applications from qualified applicants for positions on the Board.

Explanation of Section 10.03 (1) (a): Clarifies that the Nominating Committee's role includes seeking qualified applicants for positions on the Board.

10.03 (1) (b) The Nominating Committee is automatically disbanded at the adjournment of the AGM until it is reestablished by the Board.

Explanation of Section 10.03 (1) (b): Clarifies that the Nominating Committee may be reestablished by the Board whenever needed.

Section 10.04 Ad Hoc Committees

1) The Board of Directors may establish or disband Ad Hoc Committees. The establishment of an Ad Hoc committee does not cede authority and control by the Board to that committee. The Board has ultimate responsibility for making decisions recommended by an Ad Hoc committee.

Explanation of Section 10.04: Clarifies that the Board retains ultimate responsibility for making decisions recommended by an Ad Hoc committee.

Proposed New Article

Article 16. DIRECTOR'S LIABILITY

General Indemnification: LCS shall indemnify to the extent permitted by Mexican law any person who has been made or threatened to be made a party to an action, suit, or proceeding, whether civil, criminal, administrative, investigative, or otherwise (including an action, suit, or proceeding by or in the right of LCS) by reason of the fact that the person is or was a Director or officer of LCS acting within the scope of their duties and the requirements of law.

Explanation for new Section 16: Mexican law provides a level of personal indemnification from liability for Board members that is not generally granted in U.S. or Canadian law. This new article was approved by Notario #2 to comport with Mexican law and assure Board members and potential Board applicants that they have indemnification from personal liability when acting within the scope of their duties to LCS.

Requested Action – Does not amend the Constitution

The Board requests a one-time waiver of provisions in Article 9.04 of the LCS Constitution regarding the term of office of the President:

“As elected at this Extraordinary Meeting, the new President shall serve a seven-month term that concludes at the end of the Annual General Meeting scheduled for the third week in March 2025.”

Explanation for this action: This truncated term will reset the term-limit calendar that is currently off cycle, giving the President elected at the 2025 AGM a full two-year term of office.