

# By-Laws of the Metropolitan Builders & Contractors Association of New Jersey

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## ARTICLE I: NAME AND LOCATION

### SECTION 1

The name of the corporation shall be the Metropolitan Builders & Contractors Association of NJ affiliated with the National Association of Home Builders, a New Jersey Not For Profit Corporation, herein referred to as the "Association," "Metro of NJ," or " Metro".

### SECTION 2

The Metropolitan Builders & Contractors Association of NJ is an affiliate of New Jersey Builders Association, herein referred to as NJBA and the National Association of Home Builders of the United States, herein referred to as NAHB and shall abide by the constitution and By-laws of NAHB and NJBA as amended from time to time.

### SECTION 3

The principal office of the Association shall be located at such place or places as the Board of Directors from time to time may specify. The office of the Executive Vice-President shall be located in the principal office of the Association.

## ARTICLE II: TERRITORIAL JURISDICTION

### SECTION 1

The Association shall operate for the benefit of all persons, firms and corporations engaged in the building and remodeling industries and allied trades, industries and professions, in the State of New Jersey, as consistent with the NAHB Charter. The operations of this Association shall be conducted in the territory of the counties of Essex, Hunterdon, Morris, Somerset, Union, and Warren as currently chartered by NAHB and may be amended from time to time by NAHB, and approved if applicable by the Metro Board.

## ARTICLE III: OBJECTIVES AND GOALS

### SECTION 1

The Metro of NJ is a professional organization that shall serve to protect and advance the rights and interests of builders, remodelers, and associates in all matters affecting the building & remodeling industries. The Metro shall support the business interests of its member firms, support safe and affordable shelter, and foster the American dream of home ownership.

### SECTION 2

The goals of the Association are:

- A. To provide educational opportunities for all members to advance their knowledge base of the building and remodeling industries, as well as, to act as a resource center of information;
- B. To promote the highest standards of professionalism and business ethics within the building and remodeling industries;
- C. To cooperate with other organizations for the betterment of housing interests;
- D. To function as a local affiliated Association of NAHB and NJBA;
- E. To promote and support governmental activities beneficial to the housing industry;
- F. To encourage the economic soundness of the building and remodeling industries and our members;
- G. To develop industry leaders; and
- H. To provide services for the benefit of its membership.

## **ARTICLE IV: CODE OF ETHICS**

### **SECTION 1**

All members of the Association shall agree to observe and shall be bound by the following Code of Ethics and assume the following responsibilities freely and solemnly, mindful that they are part of their obligation as members of the Association:

- A. Honesty shall be the Association's guiding business policy;
- B. Members shall constantly seek to provide better values so that an ever greater share of the public may enjoy the benefits of home ownership;
- C. Members shall endeavor to comply with such rules and regulations prescribed by law and government agencies that promote the health, safety and welfare of the community and shall seek to promote high standards of health, safety and sanitation in the construction and remodeling of homes;
- D. Members shall at all times contribute their knowledge in home building and remodeling to advance Metro and the community;
- E. Members shall not obtain any business by means of fraudulent statements or by use of false statements which are unwarranted by fact or reasonable probability;
- F. Members shall not perform, or cause to be performed, any act which would tend to poorly reflect upon, or bring into disrepute, any part of the building and remodeling industries, or the Association; and
- G. Members shall deal responsibly with their respective employees, customers, and business associates.

## **ARTICLE V: MEMBERSHIP**

### **SECTION 1**

Membership in the Association shall be in four (4) categories, as follows:

- A. Builder / Remodeler Membership- any individual who is self-employed or employed by a firm, corporation, or other business entity in the business of building or remodeling of homes, apartments, schools and other public buildings, commercial, industrial, or other structures normally related and appurtenant to a community, or in land development and is of good character and business reputation shall be eligible to be a builder member;
- B. Associate Membership – Any individual who is self-employed or employed by a firm, corporation or other business entity engaged in a trade, industry, or profession related to the building business and is of good character and business reputation shall be eligible to be an associate member;
- C. Honorary Membership-Any persons so designated by the Board of Directors from time to time for distinguished and exemplary service to the building industry. An Honorary Member shall be entitled to all the privileges of other members of the Association, except for holding of office and voting, without the payment of dues; and
- D. Affiliate Membership- Any individual who is an employee of a firm, corporation or other business entity that is a builder, remodeler or associate member of this Association shall be eligible to become an affiliate member of this Association.

### **SECTION 2**

Membership in the Association shall be open to any person, firm or corporation as defined in the NAHB and NJBA By-laws, who subscribes to the foregoing Code of Ethics.

### **SECTION 3**

In order to maintain a high standard among the builder, remodelers, and associate membership of the Association, it is required that the applicants for membership, other than Honorary Members, shall sign an application for membership which shall contain an agreement by the applicant to observe and abide by the By-Laws and Code of Ethics of the Association.

The Association Board of Directors may hear appeals concerning approval or denial of membership. Such appeals may be made by applicants, provided they are in writing and submitted at least thirty (30) days prior to a regular meeting of the Board of Directors. The Association Board of Directors may promulgate rules and regulations concerning procedures for appeals.

To be accepted for any class of membership the applicant must be approved by a simple majority of a quorum of the Board, at a meeting of the Board or by a simple majority of the entire Board, pursuant to Article X Section I, within 72 hours of the electronic request for membership approval. One electronic objection for membership approval or a failure to obtain the required number of responses during an electronic vote, automatically tables the Candidate's membership approval until the next Board of Directors meeting. During the Board meeting the Candidate's membership application

will be discussed and a vote will be taken at that time. All electronic objections, if any, are to be submitted electronically to the Executive Vice-President only. Members that are approved by an electronic vote, shall have their names presented at the next Board of Directors meeting, so as to make a formal record of their membership approval.

All members of the Association shall become and be members in good standing of NAHB and NJBA.

#### **SECTION 4**

- A. Membership applications to the Association shall be made in writing to the Association, and the application shall be referred by the Secretary of the Association to the Membership Committee. This committee shall be responsible for the review of all applications for membership as Members and determine the qualifications of the applicant in accordance with the standards, rules and regulations as promulgated by the NJBA and the Membership Committee shall determine whether the applicant is qualified to be a Member of the Association. Upon the approval of the applicant as a Member, the Membership Committee shall certify to the Board of Directors of the Association that the applicant has qualified.
- B. The candidate shall submit the application in writing on a form supplied by the Association containing an agreement to abide by the By-laws and observe the Code of Ethics of the Association. Applications shall be endorsed by at least one (1) member in good standing and shall be accompanied by a payment of a year's dues. All payment so made shall be returned in full if membership is not approved.
- C. The Membership Committee shall review all applications for membership and make its recommendation to the Board of Directors who shall have the exclusive right to elect or renew membership with or without conditions pursuant to Article V, Section 2.
- D. The committee shall cause the name of each new member to be published in the Association periodicals. Applicants for membership shall be circulated to every active Board Member at least three (3) days prior to the meeting of the Board at which these names are to be considered or, electronically (3) three days prior to a call for an electronic vote. During this period, any Board Member shall have the right to object to any application. All objections shall be heard first by the Membership Committee and, if necessary, considered by the Board of Directors whose decision shall be final. Prior to final action, the Board of Directors may refer the matter to a subcommittee appointed by the Board for its recommendation. All objections will be held in strict confidence. Upon the approval by the Board of Directors of the Association, pursuant to Article V, Section 3, the Executive Vice President shall notify the Board's recommendation to NAHB and NJBA. Acceptance and approval of the application for membership shall bind the Member to these By-laws, the rules and regulations as promulgated by NAHB, NJBA and Metro.

#### **SECTION 5: RESIGNATIONS, TERMINATIONS, REINSTATEMENTS, HARDSHIP**

- A. The Board of Directors, directly or by a sub-committee appointed by it, shall consider complaints against members and may take disciplinary action as it may deem appropriate, including suspension of or expulsion from the Association. Rules concerning resignations, terminations and reinstatements shall be in writing, and shall be filed with the Executive Vice-President.
- B. In the event of a complaint against either an individual member, other than a customer complaint involving the New Home Warranty and Builder Registration Act, P.L. 1977, C.467, or the Association, the President shall have the authority to appoint a committee to investigate, report upon, and recommend action to the Board of Directors. The investigative committee shall consist of seven (7) members. They shall be board members consisting of three (3) builder members, three (3) associate members and the Metro president.
- C. The Board of Directors by a two-thirds (2/3) vote of the fully constituted Board may suspend or revoke the membership of any member for conduct detrimental to this Association including, but not limited to financial condition and business reputation. The member shall be given at least thirty (30) days written notice in advance of the meeting of the Board at which the vote is to be taken, and shall be afforded a reasonable opportunity to be heard. Membership may be administratively suspended or revoked for failure to meet financial obligations to the Association for a period of three months, with the exception of dues. If dues are not paid on time, member will be terminated when NAHB terminates a member for non-payment. A two-thirds (2/3) vote of the full constituted Board shall be required to reinstate any membership suspended or revoked for conduct detrimental to this Association under this Section. Reinstatement shall be subject to such conditions as the Board may impose.
- D. The Board of Directors shall promulgate rules and regulations for the conduct of any disciplinary hearings. Such rules and regulations shall be in writing, and shall be filed with the Executive Vice-President.
- E. Any member in good standing may resign from the Association at any time; however, resignations shall not relieve the member from the obligations to pay any outstanding bills or dues. A member may resign pending any disciplinary proceeding, provided the resignation accepted with the approval of the Board of Directors.
- F. The Board of Directors, in its discretion, on an individual basis, may consider cases of hardship when dealing with membership matters including, but not limited to, payments of dues.

## **ARTICLE VI: MEETINGS – GENERAL MEMBERSHIP**

- A. Regular meetings of the membership of the Association shall be held on dates set by the Board of Directors. Meetings shall be located at the discretion of the President, and shall change from time to time to accommodate members in the various counties within the Association's jurisdiction.
- B. An annual meeting of the membership of the Association shall be held in November of each year for the purpose of electing new Officers and members of the Board of Directors and reviewing the affairs of the Association.
- C. At discretion of the Board a meeting of the membership of the Association shall be held in January of each year for the purpose of installing the new Officers and members of the Board of Directors.
- D. Special meetings of the membership of the Association may be called at any time by the President or two-thirds (2/3) of the full membership of the Board of Directors.
- E. Notice shall be given of the date, hour and place of all meetings in writing to each member five (5) days in advance.

## **ARTICLE VII: FISCAL YEAR**

### **SECTION 1**

The fiscal year of the Association shall be January 1st to December 31st, or such other fiscal year as the Board of Directors may, by resolution, designate.

## **ARTICLE VIII: DUES**

### **SECTION 1**

- 1. Each member shall pay the Association dues annually, in advance, on the first day of the month that is the member's anniversary date. All State and National dues adjustments shall be automatically reflected in the Association's dues.
- 2. The dues structure of the Association may be modified at any time at the Board's discretion, subject to ratification of the membership by a majority vote of those in attendance at a regularly scheduled general meeting.

### **SECTION 2**

Annual dues for membership in the NAHB of the United States and the NJBA shall be paid by the Association from its Treasury at the rate fixed and under the terms stated in the By-laws (or amendments thereto currently in effect) of those Associations.

## **ARTICLE IX: EMBLEM & LOGO USAGE**

### **SECTION 1**

Each member shall have the right to use an insignia cut of the Association official insignia, imprint or replica of which may be used on all stationary, literature and advertising display.

### **SECTION 2**

The Association shall use the official emblems of the NAHB of the United States and the NJBA on all its stationery and literature.

## **ARTICLE X: BOARD OF DIRECTORS**

### **SECTION 1**

- A. The affairs of the Association shall be managed by its Board of Directors, except to the extent such affairs are reserved to the members by law, these By-laws, or delegated to others by these By-laws. The Board of Directors shall be the governing body of the Association.
  - i. The Board of Directors shall be composed of:
    - a. a minimum of three (3) elected members to a maximum of six (6) elected members (the "Elected Directors"); plus
    - b. a minimum of five (5) Presidential Appointees to a maximum of seven (7) Presidential Appointees; plus

- c. Life Directors and Past Presidents (to the extent qualified pursuant to the terms of Section 2 of this Article X) (the "Qualified Life Directors"); plus
- d. The President, First Vice-President, Vice-President Treasurer, Vice-President Secretary, First Vice-President of Associate Affairs and Second Associate Vice-President (the "Executive Officers") as ex-officio members; plus
- e. Members-at-Large (as defined in Section 2 of this Article X).
- ii. Qualified Life Directors, Executive Officers and Members-at-Large shall have the same Board of Director voting privileges as the Elected Directors and Presidential Appointees.
- iii. Presidential Appointees shall be members of the Association in good standing. Candidates to become Presidential Appointees shall be approved by the Nominating Committee as provided in Article XIII of these By-laws. The appointments for Presidential Appointees shall occur by not later than November 30th in each year.
- iv. Elected Directors shall be elected by the members of the Association in good standing at the Annual Meeting and shall serve for a term of one (1) year (taking office on January 1st and holding office until December 31st).
- v. The term of office for Presidential Appointees shall be for one (1) year and shall run concurrent with the term of the office of the President.
- vi. All Elected Directors, Presidential Appointees, Qualified Life Directors, Executive Officers and Members-at-Large shall pay full membership dues in order to maintain their privileges and voting rights as members of the Board of Directors. NAHB Affiliate members do not qualify as being full paid members of the Association.
- B. The President Elect and the Nominating Committee shall work together to endeavor to have the membership composition of the Board of Directors consist of 60% from the builder/remodeler membership and 40% from the associate membership, but under any circumstance the membership composition of the Board of Directors must default to (and shall be maintained to consist of) a majority of Directors from the builder/remodeler membership.
- C. Any Elected Directors or Presidential Appointees missing three (3) consecutive Board of Director meetings without providing a legitimate excuse, may be required to resign at the discretion of the President or the Board of Directors.
- D. Qualified Life Directors must attend three (3) Board of Director meetings annually in order to retain their Board of Director voting privileges. If a Qualified Life Director has not attended three (3) Board of Director meetings in the preceding year, they must attend three (3) Board of Director meetings in the current year, at which time, at their third meeting, their Board of Director voting privileges will be reinstated.

## **SECTION 2**

- A. Past Presidents of the Association who have completed their elected or appointed terms, shall automatically become Life Directors.
- B. Life Directorship, with Board of Director voting privileges, shall be bestowed on any member who has served at least ten (10) years, whether consecutive or not, on the Board of Directors or Executive Committee. Notice of all Board of Directors meetings shall be circulated to Life Directors by the Executive Vice-President of the Association at the address of the Life Director last appearing on the records of the Association. Notices of the meetings shall be required to be sent to Life Directors if they become ineligible to vote under Paragraph D of Section 1 of this Article X, provided that the failure to provide such notice shall not invalidate any action taken at a meeting of the Board of Directors. A list of all Life Directors shall be published in the annual Association publication and directory.
- C. The President may appoint up to three (3) members of the Association in good standing as Members-at-Large to serve as local representatives on NJBA State committees or NAHB National Standing committees. The President shall, where practicable, endeavor to appoint only Elected Directors, Presidential Appointees, Qualified Life Directors or Executive Officers to serve as the local representatives on NJBA State committees or NAHB National Standing committees.

## **SECTION 3**

Vacancies on the Board of Directors, National Representatives to NAHB and State Directors appointed to the Board of NJBA occasioned by death, removal as provided herein or resignation shall be filled by appointment by the President. The persons so appointed shall serve until the expiration of the original term.

## **SECTION 4**

National Directors of the NAHB, who are members of the Association, and alternates, shall be appointed by the President to serve for a term as prescribed by the Constitution and By-Laws of NAHB.

## **SECTION 5**

State Directors who are members of the Association shall be appointed by the President to serve for a term as prescribed by the Constitution and By-laws of the NJBA.

## **SECTION 6**

Meetings of the Board of Directors shall be held as follows:

- A. An annual meeting of the Board of Directors of the Association shall be held at the beginning of the fiscal year for the purpose of forming annual policy, reviewing the membership and such other matters as may properly come before them.
- B. There will be a minimum of eight meetings of the Board of Directors held each year.
- C. Special meetings of the Board of Directors may be called by the President or upon formal request in writing of one-third (1/3) of its members
- D. Notice of the date, hour and place of all meetings must be given to the Directors (as defined above) at least five (5) days in advance.
- E. It shall be permissible for the Board of Directors to hold meetings by a telephone conference call or other audio-visual communication. Before such conference call meetings shall be held, each Director shall be notified at least forty-eight (48) hours in advance with a copy of the meeting agenda for the conference call. This agenda requirement shall not prohibit items from being added to the agenda for any scheduled meeting. Any Officer and/or Director may waive said notice by signing a written waiver of notice which shall be filed with the minutes of the meeting.

## **SECTION 7**

- A. The Association may do all it is legally entitled to do under the laws applicable to its form of organization. The Association shall discharge its powers in a manner that protects and furthers the interests of its membership.
- B. The property, affairs and business of the Association shall be managed by the Board of Directors, which shall have all those powers granted to it by the Certificate of Incorporation, these By-laws, and by law. Without limiting the foregoing the Board shall have the following specific powers:
  - i. To employ professional counsel and to obtain advice from persons, firms or corporation such as, but not limited to, accountants, lawyers, and engineers; and
  - ii. To enter into leases or purchase agreements to provide for adequate administrative space within which to conduct the affairs of the Association; and
  - iii. To employ all administrative and managerial personnel necessary; and
  - iv. To adopt, amend, and publish rules and regulations covering the details of membership and in furtherance of any of the provisions of this Constitution and By-laws or the Certificate of Incorporation; and
  - v. To borrow and repay monies, giving notes, mortgages or other security upon such term or terms as it deems necessary; and
  - vi. To invest and reinvest monies; sue and be sued; collect interest, dividends and capital gains; exercise rights; pay taxes; make and enter into contracts; enter into leases or concessions; make and execute any and all proper affidavits for various purposes; settle any action without leave of court; and all other powers contained herein, and those necessary and incidental thereto; and
  - vii. To bring and defend actions by or against one or more members which are pertinent to the purposes of the Association, or any other legal action deemed necessary by the Board;
  - viii. To create, appoint members to and disband such committees as shall from time to time be deemed appropriate or necessary to aid the Board in the discharge of its duties, functions and powers; and
  - ix. To obtain insurance as follows:
    - a. Physical Damage Insurance. To the extent obtainable in the normal commercial marketplace, public liability insurance for personal injury and death from accidents occurring upon the property owned or leased by the Association. Said insurance shall be in such limits as the Board may, from time to time, determine;
    - b. Public Liability Insurance. To the extent obtainable in the normal commercial marketplace, public liability insurance for personal injury and death from accidents occurring upon the property owned or leased by the Association. Said insurance shall be in such limits as the Board may, from time to time, determine;
    - c. Directors' and Officers' Liability Insurance. To the extent obtainable in the normal commercial marketplace, liability insurance indemnifying the Directors and Officers of the Association against liability for errors and omissions occurring in connection with the performance of their duties in an amount of at least \$1,000,000.00 with any deductible amount to be in the sole discretion of the Board;

- d. Workers' Compensation Insurance. Workers' compensation and New Jersey disability benefits insurance as required by law;
  - e. Fidelity Insurance. To the extent obtainable in the normal commercial marketplace, fidelity insurance insuring the Association against theft, embezzlement or defalcation of its monies by any person or persons having control over such monies, in such amounts and subject to such deductibles as the Board shall determine; and
  - f. Other Insurance. Such other insurance as the Board may determine be appropriate.
- x. To exercise such other powers as are necessary or desirable to carry out the purposes and goals of the Association as set forth in these By-laws or the Certificate of Incorporation.

## **ARTICLE XI: OFFICERS**

### **SECTION 1**

The following Officers shall be elected from the membership: President, First Vice-President, Vice-President Treasurer and Vice-President Secretary. The following Officers shall be elected from the Associate membership: First Vice-President of Associate Affairs and Second Vice-President of Associate Affairs. These Officers shall be elected by the membership at their annual meeting and shall take office January 1st and hold office until December 31st.

### **SECTION 2**

Duties of the elected Officers of the Association shall be as follows:

- A. The President shall be the Chief Officer of the Association and shall preside at its meetings and those of the Executive Committee. The choice of location and time of any meeting (other than those fixed in these By-laws). The President shall, with the advice of the Board of Directors, be the official spokesperson of the Association in matters of public policy. The President shall appoint committees, shall be an ex-officio member of all committees, and shall perform all other duties usual to such office. The President of the Association shall present to the Board of Directors, a report known as the Proposed Program of the organization. This report shall not be presented later than the February Board meeting of each year.
- B. The First Vice-President, or in his/her absence, the Vice-President Treasurer shall, in the absence of the President, perform all the duties of the President and when so acting shall have all the powers of and by subject to all the restrictions upon the President. The First Vice-President shall perform such duties as may be assigned by the President, the Executive Committee or Board of Directors.
- C. The Vice-President Treasurer shall be responsible to the Association for an accounting of all monies collected and disbursed by the Association and shall render a monthly statement of the fiscal affairs of the Association to the Board of Directors (and an annual statement to the membership). The Vice-President Treasurer may be bonded by a recognized surety company at the expense of the Association, in such amount as may be decided by the Board of Directors. He/she shall also serve on the Finance and Budget Committee; and perform such duties as may be assigned to him/her by the President, Executive Committee or Board of Directors.
- D. The Vice-President Secretary shall cause to keep a record of all the official proceedings of the Association and its Board of Directors, including the reports of special committees; shall serve as Assistant Treasurer when occasion dictates same; and shall perform such duties as may be assigned to him/her by the President, Executive Committee or Board of Directors. The Vice-President Secretary or other member of the Executive Committee (other than the President) shall be the corporate Secretary of the Association.

### **SECTION 3: VACANCIES**

Vacancies in any office occasioned by the death, suspension or resignation of any Officer of the Association shall be filled by the next Officer in line on the ladder of succession (in the order the offices are enumerated in the first sentence of Section 1 of this Article) at the next meeting, special or regular, of the Board of Directors. Each Officer below the position in which a vacancy exists shall move up one office on the ladder of succession. The Nominating Committee shall select a candidate for the Vice-President Secretary and upon approval of the Board of Directors that person shall serve for the balance of the unexpired term. However such candidate so appointed must meet the qualifications of the office being vacated.

### **SECTION 4: ADMINISTRATIVE OFFICERS AND STAFF**

The following Administrative Officers, staff and consultant/professionals may be employed by the Board of Directors at such rate of compensation as they deem fair and proper under the following guidelines:

- A. An Executive Vice-President, hired by the President with the advice and consent of the Board of Directors, shall serve as the chief administrative head for the Association and shall be the official representative for the Association in the absence of an elected Officer. He/she shall keep the Officers, Board of Directors and general

membership informed of business trends, labor conditions and legislation that affects the business of the membership. He/she shall further study and make recommendations that would benefit the Association and/or the business of its members. He/she shall manage the Association office and perform all other duties usual to such office. He/she may be bonded at the expense of the Association, in such amount as may be decided by the Board of Directors. No public policy action by the Executive Vice-President shall be binding upon the Association without the approval of the Board of Directors and/or the President. The Executive Vice-President shall also act as Assistant Secretary, in the absence of the Vice-President Secretary and members of the Executive Committee, when directed by the President or the Board of Directors.

- B. Assistant secretaries, as shall be designated from time to time by the Board of Directors, who may perform the duties of the Executive Vice-President in his/her absence and perform such other duties as designated by the President or Board of Directors.
- C. Office staff, such as maybe needed for the proper carrying on of the affairs of the Association, as designated by the Board of Directors. All members of the staff shall be hired by, and shall be accountable to the Executive Vice-President, who shall, in the best interests of the Association, using his/her best judgment, remove any staff member.
- D. A general counsel who shall be appointed by the President, with the advice and consent of the Executive Committee, who shall be an attorney-at-law, licensed to practice in the State of New Jersey and who shall advise the Officers, directors and committees of the Association in legal matters.
- E. An auditor who shall be appointed by the President, with the advice and consent of the Executive Committee, who shall be a certified public accountant licensed to practice in the State of New Jersey and who shall examine the books and records of the Association, at least once a year, or as often as he/she may be directed to do so by the Executive Committee of the Association.
- F. The general counsel, auditor and other professional personnel shall be accountable to the President, the Executive Committee and the Board of Directors within the policy of the Association.
- G. The salaries of the Executive Vice-President and staff shall be reviewed by the Executive Committee upon the recommendation of the Budget Committee. There shall be at least one performance review of the Executive Vice-President per year which shall be performed under the direction of the Executive Committee. Such evaluation team may include the past and current President and President elect.
- H. Only the Board of Directors shall have the authority to remove the Executive Vice-President. Said removal can be done at a regularly scheduled Board of Directors meeting at which there is a quorum as defined in these By-laws. If it is determined that it is in the best interest of the Association for a prompt removal of the Executive Vice-President, the President will call for an emergency Board of Directors meeting for such purpose, said meeting must have a quorum before a vote can be taken.

## **ARTICLE XII: VOTING, PROXIES AND QUORUMS**

### **SECTION 1**

The voting privileges of members shall be as follows:

- A. At meetings of the membership, all members in good standing shall have the right to cast one vote on all issues attributable to the membership.
- B. At meetings of the Board of Directors, only members of the Board shall have the right to vote. The immediate Past President, the Executive Committee, the Executive Vice-President shall be ex-officio Members of the Board of Directors with full voting privileges except the Executive Vice-President and President shall not vote, provided, however, that the President may vote where the yeas and nays on any matter are equal, or where the vote would be required to achieve a super-majority vote of the Board as required under these By-laws.

### **SECTION 2**

Voting by proxy shall not be permitted at either the Board of Director meetings or the General Membership meetings.

### **SECTION 3**

A majority vote on any measure will be determined as follows:

- A. Action at any meeting of the membership shall be determined by majority vote of the members present provided there is a quorum.
- B. Action at any meeting of the Board of Directors shall, except where these By-laws provide for a super- majority vote, be determined by majority vote of the members of the Board of Directors present provided there is a quorum.



#### **SECTION 4**

A quorum present at any meeting shall be determined as follows:

- A. A quorum of the general membership meeting shall consist of not less than fifteen (15) Builder members in good standing.
- B. A quorum of the membership of Board of Directors shall consist of not less than nine (9) members.
- C. A quorum for any committee, if not otherwise designated, shall consist of those members of the committee present, provided proper notice of the meeting has been given.

### **ARTICLE XIII: ELECTIONS**

#### **SECTION 1**

The Nominating Committee shall:

- A. Solicit and consider the recommendations of the membership as to candidates for each office and directorship to be filled.
- B. Prepare and furnish to the Board at least thirty (30) days prior to the annual meeting of the membership, a report containing one (1) nomination for each office and directorship to be filled to the extent that same is practical or possible. Upon approval by the Board of the nominations so made the Executive Vice-President shall thereupon prepare and send each member a copy of this report at least five (5) days prior to the annual meeting of the membership.

#### **SECTION 2**

Additional nominations may be made to the Nominating Committee ten (10) days prior to the initial interview meeting of the Nominating Committee by presentation of a written petition signed by a minimum of twenty-five (25) members in good standing. Otherwise, the nominations shall be considered closed. The date of the initial interview meeting of the Nominating Committee shall be published in the Association's newsletter or by such other means as are likely to provide sufficient notice to the membership, at least fourteen (14) days prior to the date of the initial interview. The Nominating Committee will make attempts by email to communicate with the general membership regarding nominees.

#### **SECTION 3**

Acceptance of the report of the Nominating Committee by the membership shall constitute election of the Directors so nominated, and constitute the election of the Officers so nominated.

#### **SECTION 4**

If additional nominations are made as provided in Section 2 of this Article XIV and are qualified by the nominating committee. Vote by the membership shall be taken by secret ballot for the Officers or Directors that are contested and the candidates receiving the most votes for one office shall be considered elected.

#### **SECTION 5**

In the event that more than two (2) candidates are nominated for any office, a majority of the members voting shall be necessary to elect any candidate. In the event such a majority is not obtained, then a second vote shall be taken with respect to the two (2) candidates receiving the highest number of votes.

### **ARTICLE XIV: COMMITTEES**

#### **SECTION 1**

There shall be the following standing committees:

- A. The Executive Committee shall consist of: The President, First Vice-President, Vice-President Secretary, Vice-President Treasurer, First Vice-President of Associate Affairs, Second Vice-President of Associate Affairs and the immediate Past President. This committee shall meet upon the call of the President, the Board of Directors, or any three (3) of its members, stating the time and place of the meeting, and shall act on such matters as are assigned to it by the Board of Directors and such other matters at the discretion of the President. The President shall be the chairman of this committee.
- B. The Membership Committee shall meet at the call of the chairman. A member designated by the President shall be chairman of this committee and a member of the Executive Committee shall be Assistant Chairman. In addition to considering applications for building membership, it shall have the responsibility of investigating all applications for membership and recommending action to the Board of Directors.

- C. The Finance and Budget Committee shall meet upon the call of the chairman. This committee shall be charged with preparing the budget providing adequate funds to insure proper functioning of the Association's staff and activities and establishing the budget. The President shall appoint the Vice- President Treasurer as the chairman of the committee. This committee shall provide a written report to the Board of Directors not less than two (2) weeks in advance of the meeting of adoption of the budget.
- D. The Nominating Committee shall consist of seven (7) members in good standing, two (2) of whom shall be past Associate Affairs Vice-Presidents, four (4) shall be voting Past Presidents plus the immediate Past President. The chairman shall be the immediate Past President. In the event the immediate Past President cannot serve as Chairman, the immediately previous Past President shall assume the Chairmanship and so on until the chronologically most recent Past President is able to serve. This committee shall render a written preliminary report of the proposed nominations to the Board of Directors and Officers.
- E. The Associate Affairs Committee shall meet upon the call of the chairman. This committee shall be charged with enhancing the involvement of associate members in the affairs of the Association. The chairman of this committee shall be the First Vice-President of Associate Affairs. The Vice Chairman of the Committee will be the Second Vice-President of Associate Affairs.
- F. The Program and Events Committee shall meet upon the call of the chairman. This committee shall be charged with the duty of setting up the programs for the monthly meetings of the Association. A Vice-President, designated by the President shall be chairman of this committee.
- G. The Legislative Committee shall meet upon the call of the chairman who shall also be the member representing the Association on the State Legislative Committee. This committee shall be charged with the duty of studying and making comments on proposed legislation on a State level. The President shall appoint the chairman of this committee.
- H. The By-laws Committee shall meet upon the call of the chairman who shall also be the member representing the Association on the State Constitution and By-laws Committee. This committee shall be charged with the duty of studying and keeping the By-laws and Constitution of the Association up-to-date and when deemed necessary, suggest such changes as might be required. The President shall appoint the chairman of this committee.
- I. The Public Relations Committee shall meet upon the call of the Chairman.
- J. The Board of Directors, from time to time, may establish trade councils which it feels will further serve the needs and benefit the membership. The chairs of the Councils shall be appointed by the President.
- K. There shall be such other committees as designated by the Board of Directors, the Executive Committee or the President, the chairman of which shall be appointed by the President. The President and/or Board of Directors may alter the assignments to the foregoing committees as they deem necessary.

## **SECTION 2**

There shall be such other special committees and task force as may be designated by the President or the Board of Directors, the members of which and the method for composing such committee or task force shall be determined by the President.

## **SECTION 3**

The choice of location and time of any meeting (other than those fixed in these By-laws) shall be at the sole discretion of the Chairman of that Committee. However, where practicable, every effort should be made to hold committee meetings in the Association offices.

# **ARTICLE XV: FINANCE**

## **SECTION 1**

Dues and other monies collected by the Association shall be placed in depositories selected by the Board of Directors and payments from the funds of the Association shall be made on the signature of two (2) of the following: President, Secretary, Treasurer or Executive Vice-President. However, the Executive Vice-President may sign checks alone with a limit of: (i) in the case of checks drawn to the order of NAHB or NJBA, \$10,000; and (ii) with respect to all other checks, \$5,000.00, provided the expenditure is reflected in the approved budget of the Association. The Executive Vice-President nor any Officer shall have the right to transfer funds from the Association's investment accounts (ie. CD, Savings Account, etc.) to the regular checking accounts without obtaining approval from the majority of the Executive Committee. Said approval can be done either at an Executive Committee Meeting or by email notice to the full Executive Committee by the Executive Vice- President and approval by majority of the Executive Committee by email response.

## **SECTION 2**

The Association shall be self-sustaining and derive its budget requirements entirely from membership dues and other sources approved by the Board of Directors. The Board of Directors shall adopt a budget for each calendar year based upon the recommendations of the Budget and Finance Committee, and the Association shall function within the limits imposed by such budget. Any expenditure in excess of such budget must be authorized by the Board of Directors.

## **SECTION 3**

There shall be a regular audit of the finances of the Association by an independent Certified Public Accountant if directed by the Board of Directors. Such audit together with the report of the Treasurer shall be submitted to the Board of Directors as directed by it. The Association shall use its funds only to accomplish the objectives and purposes specified in the By-Laws and no part of said funds shall be distributed to members of the Association.

## **ARTICLE XVI: AMENDMENTS**

These By-laws may be amended, with the approval of the Board of Directors, at any meeting of the Association by a two-thirds (2/3) vote of the members present, provided that not less than (30) days notice of the substance of any proposed amendment shall have been (mailed, faxed or emailed) circulated to each active member.

## **ARTICLE XVII: DISSOLUTION**

On dissolution of the Association, any funds remaining shall be distributed to one or more regularly organized and qualified charitable, educational, and philanthropic or trade organizations created for the benefit of the building industry to be selected by the Board of Directors. The Association shall use its funds only to accomplish the objectives and purposes specified in the By-laws and no part of said funds shall be distributed to members of the Association.

## **ARTICLE XVIII: INDEMNIFICATION OF DIRECTORS, OFFICERS AND EMPLOYEES**

### **SECTION 1**

As used in this Article:

- A. "Corporate agent" means any person who is or was a director, Officer, employee or agent of the indemnifying Association or of any constituent corporation absorbed by the indemnifying Association in a consolidation or merger and any person who is or was a trustee, Officer, employee or agent of any other enterprise, serving as such at the request of the indemnifying Association, or of the constituent corporation, or the legal representative of the director, Officer, employee or agent.
- B. "Other enterprise" means any domestic corporation, foreign corporation, or corporate business entity, other than the indemnifying Association or any employee benefit plan or trust;
- C. "Expenses" means reasonable costs, disbursements and counsel fees;
- D. "Liabilities" means amounts paid or incurred in satisfaction of settlements, judgments, fines and penalties; and
- E. "Proceeding" means any pending, threatened or completed civil, criminal, administrative or arbitration actions, suit or proceeding, and any appeal therein and any inquiry or investigation which could lead to the action, suit or proceeding.

### **SECTION 2**

The Association shall indemnify a corporate agent against the agent's expenses and liabilities in connection with any proceeding involving the corporate agent because the agent is or was a corporate agent, other than a proceeding by or in the right of the Association, if:

- (a) The corporate agent acted in good faith and in a manner which the agent reasonably believed to be in or not opposed to the best interests of the Association; and
- (b) With respect to any criminal proceeding, the Association had no reasonable cause to believe the conduct was unlawful.

The termination of any 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 corporate agent did not meet the applicable standards of conduct set forth in paragraphs (1) and (2) of this section.

### **SECTION 3**

The Association shall indemnify a corporate agent against the agent's expenses in connection with any proceeding by or in the right of the Association to procure a judgment in its favor which involves the corporate agent by reason of being or having been the corporate agent, if the agent acted in good faith and in a manner which the agent reasonably believed to be in or not opposed to the best interests of the Association. However, in the proceeding no indemnification shall be provided with respect to any claim, issue or matter as to which the corporate agent was liable to the Association, unless

and only to the extent that the Superior Court or the court in which the proceeding was brought shall determine upon application that despite the adjudication of liability, but in view of all circumstances of the case, the corporate agent is fairly and reasonable entitled to indemnity for those expenses as the Superior Court or the other court shall deem proper.

#### **SECTION 4**

The Association shall indemnify a corporate agent against expenses to the extent that the corporate agent has been successful on the merits or otherwise in any proceeding referred to in section 2 and 3 of this Article or in defense of any claim, issue or matter therein.

#### **SECTION 5**

Any indemnification under section 2 of this Article, and unless ordered by a court, under section 3 of this Article, may be made by the Association only as authorized in a specific case upon a determination that indemnification is proper in the circumstances because the corporate agent met the applicable standard of conduct set forth in section 2 or 3. The determination shall be made:

- (a) By the Board of directors or committee thereof at a meeting at which is present a quorum determined without including directors who were parties to or otherwise involved in the proceeding, acting by a majority vote of directors who were not parties to or otherwise involved in the proceeding;
- (b) If the quorum is not obtainable, or, even if obtainable at the quorum of the Board of directors or committee by a majority vote of the disinterested directors directs, by independent legal counsel, in a written opinion, the counsel to be designated by the Board of directors; or
- (c) By the members, the Board of directors so directs by resolution.

#### **SECTION 6**

Expenses incurred by a corporate agent in connection with a proceeding may be paid by the Association in advance of the final disposition of the proceeding as authorized by the Board of directors upon receipt of an undertaking by or on behalf of the corporate agent to repay the amount unless it shall ultimately be determined that the agent is entitled to be indemnified as provided in this Article.

#### **SECTION 7**

The Association shall have the power to purchase and maintain insurance on behalf of any corporate agent against any expense incurred in any proceeding and any liabilities asserted by reason of the agent's being or having been a corporate agent, whether or not the Association would have the power to indemnify the agent against those expenses and liabilities under the provisions of this Article.

#### **SECTION 8**

Except as required by Section 4 of this Article, no indemnification shall be made or expenses advanced by the Association under this Article, if that action would be inconsistent with the provision of the Certificate of Incorporation, a provision of these By-laws, a resolution of the Board of Directors or of the members, an agreement or other proper corporate action in effect at the time of the accrual of the alleged cause of action asserted in the proceeding, which prohibits, limits or otherwise conditions the exercise of indemnification powers by the Association or the rights of the indemnification to which a corporate agent may be entitled.

### **ARTICLE XIX: NON-DISCLOSURE AND/OR CONFIDENTIALITY STATEMENTS**

No Members, Executive Officers, Directors or employees including the Executive Vice-President have the authority to sign a Non-Disclosure and/or Confidentiality Statement that would be binding on this Association, without first obtaining approval from the Board of Directors.

### **ARTICLE XX**

Except where explicitly provided for herein; Robert's Rules of Order, Latest Revised Edition shall govern the parliamentary procedure of the meetings of the Association provided by these By-laws. The immediate Past President shall serve as Parliamentarian. If the immediate Past President cannot serve the Parliamentarian shall be chosen by the President. The Board may, by majority vote, suspend all or any part of Robert's Rules of Order for a particular meeting. The decision of the Parliamentarian with respect to any point of order or other dispute under Robert's Rules of Order shall be final and binding.

I, the Vice-President Secretary of the Metropolitan Builders & Contractors Association of NJ , hereby certify that the foregoing amendment was adopted at a meeting of the members of the Metropolitan Builders & Contractors Association of NJ , September 13, 2012, by a vote of two-thirds of the members present and a copy of this amendment was circulated to each member not less than 30 days prior to the meeting.