

**ARTICLES OF INCORPORATION**

**OF**

**NORTHERN PLAINS BOTANIC GARDEN SOCIETY, INC.**

We, the undersigned, acting as incorporators of a corporation under the North Dakota Non-Profit Corporation Act (NDCC Chapter 10-24 through 10-28), do hereby adopt the following Articles of Incorporation for said corporation:

**ARTICLE I**

The name of the corporation shall be Northern Plains Botanic Garden Society, Inc.

**ARTICLE II**

The period of its duration shall be perpetual.

**ARTICLE III**

The location and mailing address of the registered office of the corporation in North Dakota is 310 21st Avenue North, Fargo, ND 58102; the registered agent for the corporation in North Dakota is Thomas W. Tolman, 310 21st Avenue North, Fargo, ND 58102.

**ARTICLE IV**

**PURPOSE.** The corporation is organized and shall be operated exclusively for charitable, scientific and educational purposes within the meaning of Section 501(c)(3) of the Internal Revenue Code. The specific purposes and objectives of the corporation shall include but not be limited to the following:

(1) To promote the establishment of, and establish and maintain botanical gardens and arboreta serving the Northern Plains and the Red River Valley region in cooperation with the City of

Fargo, County of Cass, or otherwise, for the collection and culture of plants, flowers, shrubs and trees, the advancement of botanical science and knowledge, and the prosecution of original researches therein and kindred subjects; for affording instruction in the same, and for the prosecution and execution of ornamental and decorative horticulture and gardening, and for the entertainment, recreation and instruction of people;

(2) To accept and administer gifts and bequests in any amount for the establishment and/or maintenance of any collection of plants or trees in such botanic gardens or for any of the objects and purposes of this corporation;

(3) To grow or cause to be grown in such arboreta and botanic gardens the best plants, flowers, shrubs and trees hardy in the City of Fargo and County of Cass, State of North Dakota, the Northern Plains and the Red River Valley region of western Minnesota in order that people may become acquainted with their names, their ornamental characteristics and the proper methods of culture;

(4) To show therein as complete selections as may seem practical of all that is considered the best from an ornamental standpoint among the plants, flowers, shrubs and trees that is possible to be grown in the region;

(5) To serve as a means of introducing new plants, flowers, shrubs and trees into the area, regardless of the course from which they may come;

(6) To increase and disseminate knowledge of plants,

flowers, shrubs and trees to the public in the region, including information on culture, pruning, fertilizing and studies under local conditions what varieties are the best, including cooperation with the City of Fargo and County of Cass, with schools and universities, garden clubs and other organizations;

(7) To test the hardiness of untried varieties;

(8) To provide an out-of-doors laboratory and teaching space for students of botany, horticulture, landscape architecture and ecology;

(9) To increase the productivity, economic important and beauty of the area, by intelligent and interesting plantings, and by introducing plants not grown there before;

(10) to provide recreational stimulus to the public by means of walks, drives, and beautiful displays and to stimulate the pleasure of learning to know new plants, flowers, shrubs and trees which might be adopted to planting on private property;

(11) To have such botanic gardens and arboreta beneficial to the people living in the region and attractive to visitors from outside the region;

(12) To establish a library and publish bulletins, pamphlets, periodicals or books to carry out the purposes of the corporation;

(13) To present, sponsor and conduct such other education, artistic, cultural and recreational programs, displays and events as shall attract visitors to, and enhance their use and enjoyment of, the botanic gardens and arboreta;

(14) To permit other uses of the botanic gardens and arboreta, by other agencies, organizations and companies, and by members of the general public, that are not inconsistent with the use and protection of the botanical collections and exhibits, in order to generate additional revenue to carry out the purposes of the corporation;

(15) To accept gifts of cash and endowments, to acquire by gift, devise, bequest, purchase, grant, lease, or in any other manner, and to own, operate, maintain, support, hold, lease, sell encumber, or otherwise dispose of real, personal or mixed property of any kind, for any of the uses or purposes of the corporation;

(16) To make and enforce contracts in relation to the objects and purposes and business of the corporation;

(17) To build and operate or cause to be built and operated conservatories for the growing of plants; and

(18) To undertake botanical and ecological research and plant explorations and to do any of the various things which may be necessary or desirable to carry out the purposes and to advance the interests of the corporation.

(b) Powers. In furtherance of the foregoing purposes and objectives (but not otherwise) and subject to the restrictions set forth in Section (c) of this article, the corporation shall have and may exercise all of the powers now or hereafter conferred upon nonprofit corporations organized under the laws of North Dakota and may do everything convenient for the accomplishment of any of the corporate purposes, either alone or in connection with other

organizations, entities or individuals, and either as principal or agent, subject to such limitations as are or may be prescribed by law.

(c) Restrictions on Powers.

(1) No part of the net earnings of the corporation shall inure to the benefit of or be distributable to any member of the Board of Directors or officer of the corporation, or any other individual (except that reasonable compensation may be paid for services rendered to or for the benefit of the corporation affecting one or more of its purposes, and no member of the Board of Directors, or officer of the corporation, or any other individual, shall be entitled to share in any distribution of any of the corporate assets on dissolution of the corporation or otherwise.

(2) No substantial part of the activities of the corporation shall consist of carrying on propaganda or otherwise attempting to influence legislation. However, if the corporation is an organization to which Section 501(h) of the Internal Revenue Code applies and the corporation has effectively elected to have such section apply, the corporation shall have the power to carry on the activities permitted by such section, but only to the extent such activities shall not result in the denial of exemption under such section. The corporation shall not participate or intervene in (including the publishing or distribution of statements) any political campaign on behalf of or in opposition to any candidate for public office.

(3) Upon dissolution of the corporation, all of the

corporation's assets remaining after payment of or provision for all of its liabilities shall be paid over or transferred to one or more exempt organizations described in Section 501(c)(3) of the Internal Revenue Code, contributions to which are deductible under Section 170(c)(2) of the Internal Revenue code. The organizations to receive such property shall be designated by the Board of Directors.

(4) Notwithstanding any other provision of these Articles of Incorporation, the corporation shall not carry on any activities not permitted to be carried on by a corporation exempt from federal income tax as an organization described in Section 501(c)(3) of the Internal Revenue Code or by a corporation, contributions to which are deductible under Section 170(c)(2) of the Internal Revenue Code, and, during any period of time in which the corporation is a "private foundation" as defined in Section 509(a) of the Internal Revenue Code:

(i) The corporation shall not engage in any act of "self-dealing" as defined in Section 4941(d) of the Internal Revenue Code, so as to give rise to any liability for the tax imposed by Section 4941 of the Internal Revenue Code;

(ii) The corporation shall make distributions for each taxable year at such time and in such manner so as not to become subject to the tax imposed by Section 4942 of the Internal Revenue Code;

(iii) The corporation shall not retain any "excess business holdings" as defined in Section 4943(c) of the Internal Revenue Code, so as to give rise to any liability for the tax imposed by Section 4943 of the Internal Revenue Code;

(vi) The corporation shall not make any investments that would jeopardize the carrying out of any of the exempt purposes of the corporation, within the meaning of

Section 4944 of the Internal Revenue Code, so as to give rise to any liability for the tax imposed by Section 4944 of the Internal Revenue Code.

(v) The corporation shall not make any "taxable expenditure", as defined in Section 4945(d) of the Internal Revenue Code, so as to give rise to any liability for the tax imposed by Section 4945 of the Internal Revenue Code.

(5) All references in these Articles of Incorporation to provisions of the Internal Revenue Code are to the provisions of the Internal Revenue Code of 1986, as amended, and to the corresponding provisions of any subsequent federal tax laws.

#### ARTICLE V

The corporation shall not have capital stock nor shall the corporation afford pecuniary gain to any of its members, officers or directors.

#### ARTICLE VI

Each officer and director, past or present, of the corporation and each person or serves or may have served at the request of the corporation as a director, officer, employee or agent, and their respective heirs, administrators, and executors, shall be indemnified by the corporation in accordance with, and to the fullest extent permissible under, the provisions of the North Dakota Non-Profit Corporation Act, as it may be from time to time amended. Whenever the applicable provisions of the North Dakota Non-Profit Corporation Act make indemnification permissible upon the finding that certain standards are met, such indemnification shall be mandatory by the corporation.

ARTICLE VII

The number of directors constituting the initial Board of Directors of this corporation shall be five. Thereafter, the Board shall consist of at least five members but not more than eighteen. The names and addresses of the persons who are to serve as the first directors for a period of one year or until their successors are elected and qualified are as follows:

Chiwon W. Lee  
2925 36th Avenue SW  
Fargo, ND 58104

H. Roald Lund  
Box 126A, Route 4  
Pelican Rapids, MN 56576

Ronald L. Ellingson  
1702 4th Street North  
Fargo, ND 58102

Thomas W. Tolman  
310 21st Avenue North  
Fargo, ND 58102

Vickie Chepulis  
1005 7th Avenue North  
Fargo, ND 58102

Gary A. Goreham  
1638 9th Street North  
Fargo, ND 58102

ARTICLE VIII

The name and resident address of each incorporator of the corporation is:

Chiwon W. Lee  
2925 36th Avenue SW  
Fargo, ND 58104

H. Roald Lund  
Box 126A, Route 4  
Pelican Rapids, MN 56576

Ronald L. Ellingson  
1702 4th Street North  
Fargo, ND 58102

Thomas W. Tolman  
310 21st Avenue North  
Fargo, ND 58102

Vickie Chepulis  
1005 7th Avenue North  
Fargo, ND 58102

Gary A. Goreham  
1638 9th Street North  
Fargo, ND 58102

Dale E. Herman  
109 Woodland Drive  
Fargo, ND 58102

Chris L. Knispel  
1117 3rd Street North  
Fargo, ND 58102

Elissa M. Novy  
1020 1st Street North  
Fargo, ND 58102



ARTICLE IX

The members of this corporation shall not be individually liable for corporate obligations.

We, the above-named incorporators, being first duly sworn, state that we have read the within and foregoing Articles of Incorporation of Northern Plains Botanic Garden Society, Inc., a North Dakota non-profit corporation, and know their contents, and verily believe the statements and information contained in said Articles of Incorporation to be true and correct to the best of our knowledge, information and belief.

Dated this 17<sup>th</sup> day of September, 1998.

Chiwon W. Lee

Chiwon W. Lee

Ronald Ellingson

Ronald L. Ellingson

Vickie Chepulis

Vickie Chepulis

Dale E. Herman

Dale E. Herman

Elissa M. Novy

Elissa M. Novy

H. Roald Lund

H. Roald Lund

Thomas W. Tolman

Thomas W. Tolman

Gary A. Goreham

Gary A. Goreham

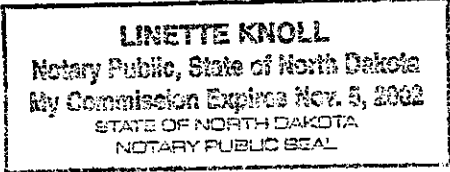
Chris L. Knispel

Chris L. Knispel

STATE OF NORTH DAKOTA )  
 ) ss.  
COUNTY OF CASS )

On this 17<sup>th</sup> day of September, 1998, before me a notary public within and for said county and state, personally appeared Chiwon W. Lee, to me known to be the person described in and who executed the foregoing instrument and who acknowledged the same as his own free act and deed.

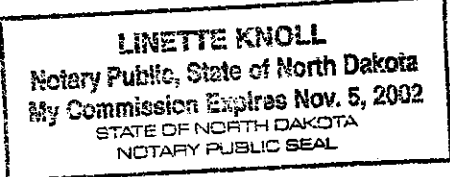
Linette Knoll  
Notary Public



STATE OF NORTH DAKOTA )  
 ) ss.  
COUNTY OF CASS )

On this 17<sup>th</sup> day of September, 1998, before me a notary public within and for said county and state, personally appeared Ronald L. Ellingson, to me known to be the person described in and who executed the foregoing instrument and who acknowledged the same as his own free act and deed.

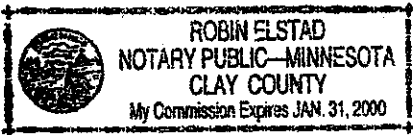
Linette Knoll  
Notary Public



STATE OF MINNESOTA )  
 ) ss.  
COUNTY OF CLAY )

On this 17 day of September, 1998, before me a notary public within and for said county and state, personally appeared Thomas W. Tolman, to me known to be the person described in and who executed the foregoing instrument and who acknowledged the same as his own free act and deed.

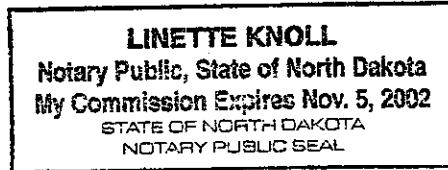
Robin Elstad  
Notary Public



STATE OF NORTH DAKOTA )  
 ) ss.  
COUNTY OF CASS )

On this 17<sup>th</sup> day of September, 1998, before me a notary public within and for said county and state, personally appeared Vickie Chepulis, to me known to be the person described in and who executed the foregoing instrument and who acknowledged the same as her own free act and deed.

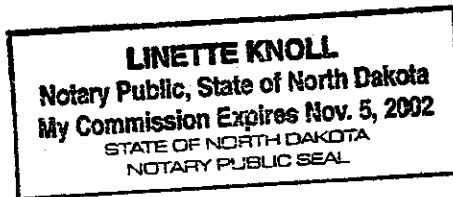
Linette Knoll  
Notary Public



STATE OF NORTH DAKOTA )  
 ) ss.  
COUNTY OF CASS )

On this 17<sup>th</sup> day of September, 1998, before me a notary public within and for said county and state, personally appeared H. Roald Lund, to me known to be the person described in and who executed the foregoing instrument and who acknowledged the same as his own free act and deed.

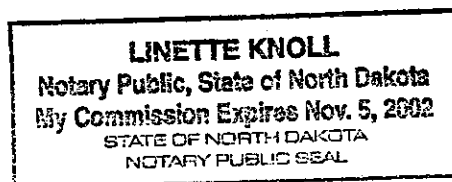
Linette Knoll  
Notary Public



STATE OF NORTH DAKOTA )  
 ) ss.  
COUNTY OF CASS )

On this 17<sup>th</sup> day of September, 1998, before me a notary public within and for said county and state, personally appeared Gary A. Goreham, to me known to be the person described in and who executed the foregoing instrument and who acknowledged the same as his own free act and deed.

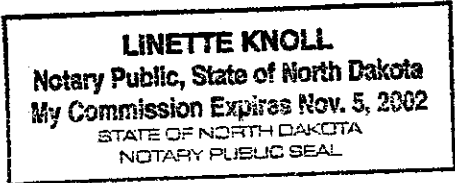
Linette Knoll  
Notary Public



STATE OF NORTH DAKOTA )  
 ) ss.  
COUNTY OF CASS )

On this 17<sup>th</sup> day of September, 1998, before me a notary public within and for said county and state, personally appeared Dale E. Herman, to me known to be the person described in and who executed the foregoing instrument and who acknowledged the same as his own free act and deed.

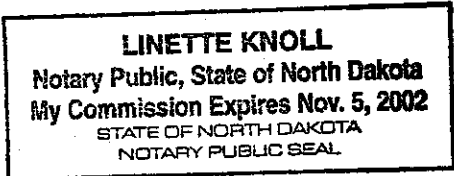
Linette Knoll  
Notary Public



STATE OF NORTH DAKOTA )  
 ) ss.  
COUNTY OF CASS )

On this 17<sup>th</sup> day of September, 1998, before me a notary public within and for said county and state, personally appeared Chris L. Knispel, to me known to be the person described in and who executed the foregoing instrument and who acknowledged the same as his own free act and deed.

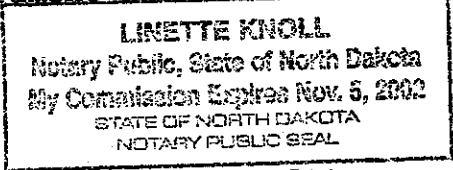
Linette Knoll  
Notary Public



STATE OF NORTH DAKOTA )  
 ) ss.  
COUNTY OF CASS )

On this 23<sup>rd</sup> day of September, 1998, before me a notary public within and for said county and state, personally appeared Elissa M. Novy, to me known to be the person described in and who executed the foregoing instrument and who acknowledged the same as her own free act and deed.

Linette Knoll  
Notary Public



THIS INSTRUMENT DRAFTED BY: Robert J. Schaefer, Attorney at Law  
501 Main Avenue, Moorhead, MN 56560