



## **BY-LAW NO. 1**

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## BY-LAW NO. 1

A By-law relating generally to the conduct of the affairs of the Corporation.

### INTERPRETATION

1. Definition - In this By-law, unless the context otherwise specifies or requires:
  - A. “Act” means *The Corporations Act*, R.S.N. 1990, c. C-36 as from time to time amended and every statute that may be substituted therefore and, in the case of such substitution, any references in the By-laws of the Corporation to provisions of the Act shall be read as references to the substituted provisions therefore in the new statute or statutes.
  - B. “Articles of Incorporation” means the Articles of Incorporation pursuant to Form 1 of *The Corporations Act*.
  - C. “By-law” means any By-law of the Corporation from time to time in force and effect.
  - D. “Corporation” means **Mount Pearl Frosty Festival**, a Newfoundland non-share capital corporation incorporated under the Act.
  - E. “Member” means any of the possible people listed in Article 7.
  - F. “Regulations” means the regulations made under the Act as from time to time amended and every regulation that may be substituted therefore and, in the case of such substitution, any references in the By-laws of the Corporation to provisions of the regulations shall be read as references to the substituted provisions therefore in the new regulations.
  - G. “Affiliated Organizations” means Mount Pearl Community based organizations that have a demonstrated interest in creating goodwill within the City of Mount Pearl.
  - H. “Board of Directors” consists of the members of the Mount Pearl Frosty Festival Board of Directors. This includes the executive (officers), directors, and Community Services Representative.
  - I. “Officers” means the executive members of the Frosty Festival Board of Directors, they include the Chairperson, Vice-Chairperson, Immediate Past-Chairperson, Secretary and Treasurer and may be referred to as the

### Executive Committee

- J. “Signing Officers” means those Executive members authorized by the Board of Directors to sign cheques and contracts.
- K. “Standing Committees” means permanent committees of the Frosty Festival Board of Directors which consist of members of the Board.
- L. “Sub-Committees” means permanent committees of the Frosty Festival which are chaired by a Director with non-board members.
- M. “Ad-hoc Committees” means committees created on a temporary basis by the Board of Directors to fill a specific need or undertake a specific task.

2 Interpretation – This By-law, unless the context otherwise requires, be construed and interpreted in accordance with the following:

- A. All terms which are contained in the By-laws of the Corporation and which are defined in the Act or the Regulations made there under shall have the meanings given to such terms in the Act or such Regulations;
- B. Words importing the singular number only shall include the plural and vice versa; and the word “person” shall include bodies, corporate, corporations, companies, partnerships, syndicates, trusts and any number of aggregate of person; and
- C. The headings used in the By-laws are inserted for reference purposes only and are not to be considered or taken into account in construing the terms or provisions thereof or to be deemed in any way to clarify, modify or explain the effect of any such terms or provisions.

## **MANDATE**

- 3. A. The Corporation is established for the following purposes:
  - Provide an annual Frosty Festival in Mount Pearl;
  - Involve the community and local organizations in festival planning and programming;
  - Encourage mass participation by residents in the festival;
  - Promote a festival atmosphere;
  - Foster a festival image of Mount Pearl that reflects a healthy community, a hospitable and fun place to live and visit;
  - Develop and strengthen the “Frosty” symbol – one that encourages fun and spirit of community;
  - Maintain a sustainable approach to the management and financial structure of Frosty Festival; and,

- Encourage volunteer participation, support, recognition and camaraderie.
- B. In furtherance of its aforementioned Mandate, the Corporation shall use the following guiding principles:
- A permanent and broad based Community organization involvement is strongly encouraged. Recruitment of organizations to support the Frosty Festival structure will be pursued
  - Develop a core program that is highly visible, accessible, affordable and festive in its delivery; and,
  - Create a central festival setting such as the Glacier Arena, the Reid Community Centre and other locations with the capabilities to provide indoor/outdoor activities that can cope with extreme weather.

### **CORPORATE OFFICE**

4. The office of the Corporation shall be situated at the Robert (Bob) Hillier Volunteer Centre, Glacier Arena, 45 Olympic Drive, Mount Pearl, Newfoundland & Labrador, A1N 4K3.

### **SEAL**

5. The seal of the Corporation shall be such as the Board of Directors may by resolution from time to time approve.

### **DIRECTORS – TERM OF OFFICE**

6. Duties and Number – The affairs of the Corporation shall be managed by the Board of Directors who may be known and referred to as directors, trustees or governors and who may exercise all such powers and do all such acts and things as may be exercised or done by the Corporation that are not by the By-laws or by statute expressly directed or required to be done in some other manner. The Board of Directors shall consist of the number of directors set out in the Letters Patent or such other number of directors as may be deemed from time to time by special resolution provided that the number of directors shall be no fewer than three directors and no more than twelve directors.
7. The Officers of the Corporation shall consist of the Chairperson, the Vice-Chairperson, the Secretary, the Treasurer and the Immediate Past-Chairperson.
- A. The directors' term of office shall be from the time they are elected or appointed as per section 18 (between May 1<sup>st</sup> and May 15<sup>th</sup>) – April 30<sup>th</sup> of the year they are elected or appointed, or until their successors are elected or appointed. The position of Vice-Chairperson, Chairperson and Immediate Past Chairperson will be based on an election for a period of three years.

This is to ensure continuity of the executive structure and leadership of the Board of Directors and the organizational structure. Once the Vice-Chairperson is elected, he/she will automatically become Chairperson in his/her second term and become Immediate Past-Chair in the third term. All other executive positions of Secretary and Treasurer will be for a period of two years on a rotation basis whereby the Secretary and Treasurer have separate anniversary dates.

The Vice-Chairperson, Chairperson and Immediate Past Chairperson cannot be reappointed or elected to an executive position until an absence of three years from the Executive Committee is completed.

In the absence or vacancy of a Vice-Chairperson to succeed as Chairperson there will be no restrictions on eligibility to fulfil positions

- B. The Chairperson of the Board shall exercise supervision over all Corporation affairs. The Chairperson shall preside at the Annual General meeting and Special Meetings of the Corporation, at all meetings of the Board of Directors, and at all meeting of the Executive Committee. The Chairperson shall be an Ex-Officio Member of all Standing and Ad Hoc Committees.

In the absence of the Chairperson of the Board, the Vice-Chairperson shall exercise all the powers of the Chairperson.

- C. The Immediate Past Chairperson of the Board shall be Chairperson of the Nominations Committee. It will be the responsibility of the Immediate Past Chairperson to actively recruit individuals for future positions on the Board of Directors. In addition the Immediate Past Chairperson, at the direction of the Executive, will evaluate programs, services, and overall governance of the Corporation when necessary. The Immediate Past Chairperson will work closely with the Chairperson and Vice-Chairperson for the efficient operation of the Corporation.
- D. The Secretary shall cause to be kept and maintained at the Corporate Office the minutes of all Annual General Meetings, Special Meetings, meetings of the Board of Directors and of the Executive Committee. The Secretary shall be the custodian of all deeds, contracts, agreements, insurance policies and other documents of value and shall cause all such documents to be properly preserved at the Corporate Office or other location as the Board of Directors may direct.
- E. The Treasurer shall cause to be kept and maintained at the Corporate Office, adequate and correct accounts of the properties and financial transactions of the Committee, including accounts of assets and liabilities, receipts and disbursements. The Treasurer shall render to the Board/Finance Committee,

whenever they may require it, an accounting of all transactions as Treasurer and of the financial position of the Board. The Treasurer shall present at the Annual General Meeting a statement of the accounts for the current fiscal year.

- F. Additional Seven (7) Board Members - these members are to be appointed on an annual basis by the Executive of the Board in the following manner:
- (i) Five additional board members, Directors-at-large, shall be appointed by the Executive on the board;
  - (ii) A sixth additional board member shall be a representative of the "Community Groups" in a manner they see fit; and
  - (iii) A Seventh additional board member shall be a representative of the Community Services Department of the City of Mount Pearl or another designate at the discretion of City Council.

### **STANDING COMMITTEES**

8. A. There shall be three (3) standing committees on the Board of Directors:
- Executive Committee;
  - Finance Committee; and the,
  - Nominating Committee
- B. At a Board of Directors meeting immediately following the Annual General Meeting the incoming Board of Directors shall approve the appointments of the members of the Standing Committees except the Executive Committee. The members of the Executive Committee are determined pursuant to Article 7.
- C. Members of the Standing Committees are appointed for one (1) year term..
- D. If a vacancy occurs among the members of the Standing Committees, it may be filled by the Board of Directors for the balance of the term rendered vacant.
- E. The Standing Committees may, at their discretion, request the attendance of staff members to act in an advisory capacity.
- F. All Standing Committees are to report directly to the Board of Directors.

### **THE EXECUTIVE COMMITTEE**

9. A. The Executive Committee shall consist of the Chairperson, the Vice-Chairperson, the Secretary, the Treasurer and the Immediate Past Chairperson of the Board of Directors.

- B. The Executive Committee may exercise all the powers of the Board of Directors between meetings of the Board. All decisions of the Executive Committee will be reviewed by the Board of directors at its next meeting, and submitted for ratification as part of the regular business of each Board meeting.
- C. The Executive Committee will meet at the call of the Chairperson.

### **THE FINANCE COMMITTEE**

- 10. A. The Finance Committee shall be chaired by the Treasurer and shall consist of two (2) other members of the Board "as appointed by the Board of Directors.
- B. The Finance Committee shall be responsible for the review of the financial operation of the Corporation on a continuous and shall report to the Board of Directors as deemed necessary by the Board of Directors.
- C. By November 1st of each year, the Treasurer is to provide to the Finance Committee his/her budget for the current fiscal year. The Finance Committee will review the Treasurers recommendations and report to the-Board of Directors no later than December 1st.
- D. The Finance Committee shall meet at the call of the Committee Chairperson or at such other times as the Board of Directors may determine.

### **THE NOMINATING COMMITTEE**

- 11. A. The Nominating Committee shall be chaired by the Immediate Past Chairperson of the Board of Directors and shall consist of two (2) other members selected from the Board, as appointed by the Board of Directors.
- B. The Nominating Committee shall secure the consent of qualified candidates to be elected to the Board of Directors and shall present a full slate of nominees to the membership prior to the election.
- C. The Vice-Chairperson will automatically become a nominee for Chairperson however other nominations will be permitted from the floor..



## **SUB-COMMITTEES**

12. A. There shall be seven (7) Sub-Committees of the Board of Directors:
- Community Services Committee
  - Program and Events Committee
  - Marketing & Communications Committee
  - Ways & Means Committee
  - Volunteer Services Committee
  - Community Groups Committee
  - Sponsor Relations Committee
- B. At the Board of Directors meeting immediately following the Annual General Meeting the incoming Board of Directors shall approve the appointments of the members of the Sub-Committees.
- C. A Sub-Committee shall be chaired by a Board Director and consist of 2 other members as ratified by the Board of Directors, unless otherwise determined by the Board of Directors.
- D. Members of the Sub-Committee are appointed for one (1) year term.
- E. If a vacancy occurs among the members of the Sub-Committees, it may be filled by the Sub-Committee Chairperson and ratified by the Board of Directors for the balance of the term rendered vacant.
- F. The Sub-Committees may, at their discretion, request the attendance of Board members, or designates, to act in an advisory capacity.
- G. All Sub-Committee Chairpersons are to report directly to the Board of Director.
- H. At the second Board of Directors Meeting following the Annual General Meeting, each Sub-Committee is to prepare and present a plan of action for the current fiscal year.

## **COMMUNITY GROUPS SUB-COMMITTEE**

13. A. The Community Groups Sub-Committee shall consist of representatives of those community groups who hold community group events during the festival.
- B. At the final community meeting for the year, the Community Groups will elect the Community Groups Director for the following year.

- C. Members of the Community Groups Sub-Committee are appointed by the community groups in which they represent. Each community group is eligible to have two members sit on the Community Groups Sub-Committee.
- D. If a vacancy occurs among the members of the Community Groups Sub-Committees, it may be filled by the community group for the balance of the term rendered vacant,
- E. The Community Groups Sub-Committee may, at their discretion, request the attendance of the Board of Directors, or designates, to act in an advisory capacity.

### **AD-HOC COMMITTEES**

- 14.
  - A. Ad-Hoc Committees may be formed at the discretion of the Board of Directors for a temporary, fixed time frame in order to complete a specific task.
  - B. The Board of Directors will appoint a Chairperson, and will approve members of the Ad-Hoc Committee.
  - C. Terms of reference for all Ad-Hoc Committees will be approved by the Board of Directors.
  - D. Ad-Hoc Committees report to the Board of Directors through the Chairperson.

### **ELECTIONS**

- 15.
  - A. Members of the Board of Directors upon may nominate and recommend candidates for the Board of Directors. To nominate or recommend person, members must complete a nomination form and this form must be received by the Nominating Committee Chairperson at least 10days prior to the date of the Annual General Meeting. This nomination form will be prescribed and approved by the Board of Directors.
  - B. If there is more than one nomination for an Officer position then there shall be an election at the Annual General Meeting for each Officer position for which there are more than one nomination.
  - C. If one or more nominations are received for Director Positions there shall be an election by the Executive for Directors at large at the first meeting of the new executive, this meeting will take place between May 1<sup>st</sup> and May 15<sup>th</sup>.

- D. The Nominating Chairperson shall prepare ballots to be used at an election and all elections shall be conducted by secret ballot. Two scrutineers shall be appointed by a motion of the Members. The scrutineers shall be responsible for delivery, collection and counting of the ballots and shall report the results of the election to members.
- E. Upon completion of the election and the announcing of the results. the ballots shall be destroyed by a motion of the Members
- F. Members shall have one vote. If the election shall result in a tie then there shall be a re-vote. If the tie cannot be broken then the Chairperson of the Board of Directors would be permitted to have two votes in order to break the tie.

## FINANCES

- 16.
  - A. An independent chartered professional accountant or firm shall be appointed to audit the Corporation's accounts for the current fiscal year. The audit shall be made available to the Corporation's Board of Directors by August 30<sup>th</sup> of the calendar year.
  - B. The Frosty Festival fiscal year shall be from May 1<sup>st</sup> to April 30<sup>th</sup> inclusive.
  - C. The funds of the Corporation shall be disbursed by means of voucher cheques, prepared and certified by the Treasurer or such other persons as may be duly authorized by the Board of Directors. All cheques of the Corporation shall be signed by two of the three signing officers.
  - D. The Directors of the Corporation may from time to time:
    - (i) Borrow money upon the credit of the Corporation by obtaining loans or advances or by way of over-draft or otherwise;
    - (ii) In the event of dissolution. any assets remaining after payment of all liabilities will be distributed to charitable organizations in Mount Pearl, as specified by the Board of Directors.

## MEETINGS

- 17.
  - A. The Annual General Meeting of Members shall be held prior to April 30<sup>th</sup> immediately following the calendar year end for the City of Mount Pearl, Newfoundland and Labrador or at other such time and location as the Board of Directors may appoint. The exact date and place of the meeting shall be determined by the Board of Directors. At least fourteen (14) days notice of such meeting shall be given. **A quorum shall consist of fifty-percent (50%) plus (1) of the members of the Committee who are entitled to vote.**

- B. Regular meetings of the Board of Directors shall be held at least eight(8) times each year. They may be called at any time by order of the Chairperson of the Board of Directors – provided the purpose of such meetings is set forth in the notice. At least fourteen (14) days notice of any meetings of the Board of Directors shall be given unless a waiver of notice is signed by all those in attendance.
- C. Special meetings of members of the Corporation may be called by the Chairperson or by any two members of the Board of Directors and may be held at any time; the time and place to be designated in the notice thereof. A **quorum** for the transaction of business shall consist of **fifty-percent (50%) plus one (1)** of the members entitled to vote. At least 14 days notice of such meeting shall be given.
18. Qualifications – Every director shall be nineteen or more years of age of majority and shall be a member of the Corporation, or shall become a member of the Corporation within ten days after election or appointment as a director.
19. Appointment and Removal of subsequent Board Members shall be through the same process as outlined in the preceding Article 7.
20. Vacation of Office – The office of a director (or the alternate representative where applicable) shall be vacated if he/she:
- A. If by notice in writing to the Corporation, resigns his/her office, which resignation shall be effective at the time it is received by the Corporation or at the time specified in the notice, whichever is later;
  - B. Dies;
  - C. Is removed from office in accordance with Article 7;
  - D. Does not attend (3) consecutive properly called meetings of the Board with reasonable cause;
  - E. Is expelled for cause, provided such action is approved by a three-quarter-majority vote of the entire board.
21. Appeal of Vacation of Office – A director may appeal his/his expulsion from office by a written application to the Secretary for review by the Executive of the Board, said application to be received by the Secretary within seven days of the Director being expelled. Upon review, the Executive Committee may recommend reinstatement to the Board. A three-quarter majority vote of the entire Board shall be required to reinstate the expelled director.
22. Filling Vacancies – Subject to the provisions of Article 7, any vacancy occurring in the Board of Directors for reasons specified in paragraph 10, may be filled for the remainder of the term by the directors then in office. If they shall see fit to do so, so long as there is a quorum of directors in office;

otherwise such vacancy shall be filed at the next annual meeting of the corporation at which the directors, the remaining directors shall forthwith call a meeting of the members to fill the vacancy, and, in default or if there are no directors then in office, the meeting may be call by any member.

23. Notice - A meeting of directors may be convened by the chairperson or any two directors at any time, and the secretary, when directed or authorized by any such officers or any two directors, shall convene a meeting of the directors. The notice of meeting convened as aforesaid need not specify the purpose of or the business to be transacted at the meeting. Notice of any such meeting shall be served in the manner specified in paragraph 56 of this By-law not less than two (2) days (exclusive of the day on which the notice is delivered or sent but inclusive of the day for which notice is given) before the meeting is to take place; provided always that a director may in any manner and at any time waive notice of a meeting of directors and attendance of a director at a meeting of directors shall constitute a waiver of notice of the meeting except where a director attends a meeting for the xpress purpose of objecting to the transaction of any business on the grounds that the meeting is not lawfully called; provided further that meetings of directors may be held at any time without notice if all the directors are present (except where a director attends a meeting for the express purpose of objecting to the transaction of any business on the grounds that the meeting is not lawfully called) or if all of the absent directors waive notice before or after the date of such meeting.

If the first meeting of the Board of Directors following the election of directors by the members is held immediately thereafter, then for such meeting or for a meeting of the Board of Directors at which a director is appointed to fill a vacancy in the board, no notice shall be necessary to the newly elected or appointed directors or director in order to legally constitute the meeting, provided that a quorum of the directors is present.

24. Omission of Notice – The accidental omission to give notice of any meetings of directors to, or the non-receipt of any notice by, any person hall not invalidate any proceeding taken at such meeting.
25. Adjournment – Any meeting of directors maybe be adjourned from time to time by the chairperson of the meeting, with the consent of the meeting, to a fixed time and place. Notice of any adjourned meeting of directors is not required to be given if the time and place of adjourned meeting is announced at the original meeting. The directors who formed a quorum at the original meeting are not required to form the quorum at the adjourned meeting. If there is no quorum present at the adjourned meeting, the original meeting shall be deemed to have terminated forthwith after its adjournment. Any business may be brought before or dealt with at any adjourned meeting which might have been brought before or dealt with at the original meeting in accordance with the notice calling the same.

26. Regular Meeting - The Board of Directors may appoint a day or days in any month or months for regular meetings of the Board of Directors at a place or hour to be name by the Board of Directors and a copy of any resolution of the Board of Directors fixing the place and time of regular meeting of the Board of Directors shall be sent to each director forthwith after being passed, but no other notice shall be required for any such regular meeting.
27. Quorum – The number of directors which shall from a quorum for the transaction of business shall be the Chairperson (or the Vice Chairperson in the absence of the Chairperson) plus the number of additional directors required to form a majority of directors. Notwithstanding any vacancy among the directors required to form a majority of directors.
28. Voting – Each director is authorized to exercise one (1) vote. Questions arising at any meeting of directors shall be decided by a majority of votes. In case of an equality of votes the Chairperson of the meeting in addition to an original vote shall have a second of casting vote.
29. Telephone Participation - Any business undertaking to be completed outside a regular meeting as per the By-law that requires the approval of the directors, shall be approved by a unanimous vote by the directors and ratified at a regular meeting. If all the directors of the Corporation present at or participating in the meeting consent, a meeting of directors may be held by means of such telephone, electronic or other communication facilities as permit all persons participating in the meeting to communicate with each other simultaneously and instantaneously, and a director participating in such meeting by such means is deemed for the purpose of the Act to be present at that meeting.

## **POWERS OF DIRECTORS**

30. Administer Affairs - The directors of the Corporation may administer the affairs of the Corporation in all things and make or cause to be made for the Corporation, in its name, any kind of contract including, but not exclusive of, licensing agreements, which the Corporation may lawfully enter into and, save as hereinafter provided, generally, may exercise all such other powers and do all such other acts and things as the Corporation is by its Letters Patent or otherwise authorized to exercise and do.
31. Expenditures - The directors shall have power to authorize expenditures on behalf of the Corporation from time to time and may delegate, by resolution to an officer or officers of the Corporation, the right to employ and pay salaries to employees. The directors shall have the power to make expenditures for the purpose of furthering the objects of the Corporation. The directors shall have the power to enter into a trust arrangement with a trust company for the purpose of creating a trust fund in which the capital and interest may be made available

for the benefit of promoting the interest of the Corporation in accordance with such terms as the Board of Directors may prescribe.

32. Fund Raising - The Board of Directors shall take such steps as they may deem requisite to enable the Corporation to acquire, accept, solicit or receive legacies, gifts, grants, settlements, bequests, endowments and donations of any kind whatsoever for the purpose of furthering the objects of the Corporation.
33. Agents and Employees - The Board of Directors may appoint such agents and engage such employees as it shall deem necessary from time to time and such persons shall have such authority and shall perform such duties as shall be prescribed by the Board of Directors at the time of such appointment.
34. Remuneration of Agents and Employees - The remuneration of all agents and employees shall be fixed by the Board of Directors by resolution. Such resolution shall have force and effect only until the next meeting of members when such resolution shall be confirmed resolution of the members, or in the absence of such confirmation by the members, then the remuneration to such agents or employees shall cease to be payable from the date of such meeting of members.
35. Revenues/Profits - Any revenues received by the Corporation in the fulfillment of its operation shall be applied to all expenses incurred with respect to same. If there are any profits existing at year end (which will be determined by the yearly financial statements), then such profits are to be held by the Festival Committee or are to be used in the furtherance of its undertaking and operating principles as aforementioned.

## OFFICERS

36. Appointment - The board of Directors shall annually or, more often if required appoint the Chairperson, Vice-chairperson, Secretary and Treasurer as per paragraph 7. Notwithstanding the foregoing, each incumbent officer shall continue in office until the earlier of:
  - A. That officer's resignation, which resignation shall be effective at the time the written resignation is received by the Corporation or at the time specified in the resignation, whichever is later;
  - B. The appointment of a successor;
  - C. That officer's removal; or
  - D. That officer's death.

37. Remuneration of Members- The remuneration of all members shall be determined from time to time by resolution of the Board of Directors.
38. Vacancies - If the office of any officer of the Corporation shall be or become vacant by reason of death, resignation, disqualification or otherwise, the directors by resolution may appoint a person to fill such vacancy.
39. Duties of Officers may be Delegated - In case of the absence or inability to act of any member of the Corporation or for any other reason that the Board of Directors may deem sufficient, the Board of Directors may delegate all or any of the responsibilities of any such member to any other member.

### **FOR THE PROTECTION OF DIRECTORS AND OFFICERS**

40. For the Protection of Directors and Officers - Except as otherwise provided in the Act no director or officer for the time being of the Corporation shall be liable for the acts, receipts, neglects or defaults of any other director or officer or employee or for any loss, damage or expense happening to the Corporation through the insufficiency or deficiency of title to any property acquired by the Corporation or for or on behalf of the Corporation or for the insufficiency or deficiency of any security in or upon which any of the moneys of or belonging to the Corporation shall be placed out or invested or for any loss or damage arising from the bankruptcy, insolvency or tortuous act of any person including any person with whom or which any moneys, securities or effects shall be lodged or deposited or for any loss, conversion, misapplication or misappropriation of or any damage resulting from any dealings with any moneys, securities or other assets belonging to the Corporation or for any other loss, damage or misfortune whatever which may happen in the execution of the duties of the director's or officer's respective office or trust in relation thereto unless the same shall happen by or through the director's or officer's own willful neglect or default. The directors and officers for the time being of the Corporation shall not be under any duty or responsibility in respect of any contract, act or transaction whether or not made, done or entered into in the name or on behalf of the Corporation, except such as shall have been submitted to and authorized or approved by the Board of Directors. If any director or officer of the Corporation shall be employed by or shall perform services for the Corporation otherwise than as a director or officer or shall have an interest in a person who is employed by or performs services for the Corporation, the fact of being a director or officer of the Corporation shall not dis-entitle such director or officer or such person, as the case may be, from receiving proper remuneration for such services.

All Directors are to carry director's liability insurance at all times, and the cost of it is to be covered by the Mount Pearl Festival Board of Directors.



## INDEMNITIES TO DIRECTORS AND OTHERS

41. Indemnities to Directors and Others - Every director or officer of the Corporation or other person who has undertaken or is about to undertake any liability on behalf of the Corporation or any corporation controlled by it and their heirs, executors, and administrators, and estate and effects, respectively, shall from time to time and at all times, be indemnified and save harmless out of the funds of the Corporation, from and against:
- A. All costs, charges and expenses whatsoever which such director, officer or other person sustains or incurs in or about any action, suit or proceeding that is brought, commenced or prosecuted against the director, officer or other person for or in respect of any act, deed, matter, or thing whatever, made, done or permitted by them, in or about the execution of the duties of such office or in respect of any such liability; and
  - B. All other costs, charges and expenses which the director, officer or other person sustains or incurs in or about or in relation to the affairs thereof, except such costs, charges, or expenses as are occasioned by their own willful neglect or default.

The Corporation shall also indemnify any such person in such other circumstances as the Act or law permit or requires. Nothing in this By-law shall limit the right of any person entitled to indemnity to claim indemnity apart from the provisions of this By-law to the extent permitted by the Act or law.

## INTERESTED DIRECTOR CONTRACTS

42. Conflict of Interest - A director who is in any way directly or indirectly interested in a contract or proposal contract with the Corporation shall make the disclosure required by the Act. Except as provided by the Act, no such director shall vote on any resolution to approve any such contract. Subject to the Act, it is declared that no director shall be disqualified by any such office from, or vacate any such office by reason of, holding any office or place of profit under the Corporation or under any corporation in which the Corporation shall be a shareholder or by reason of being otherwise in any way directly or indirectly interested or contracting with the Corporation as vendor, purchaser or otherwise or being concerned in any contract or arrangement made or proposed to be entered into with the Corporation in which the director is in any way directly or indirectly interested as vendor, purchaser or otherwise. Subject to compliance with the Act, no contract or arrangement entered into by or on behalf of the Corporation in which any director shall be in any way directly or indirectly interested shall be voided or voidable and no director shall be liable to account to the Corporation or any of its members or creditors for any profit realized by or from any such contract or arrangement by reason of any fiduciary relationship.

43. Submission of Contracts or transactions to Members for Approval - The Board of Directors in its discretion may submit any contract, act or transaction with the Corporation for approval or ratification at any annual meeting of the members or at any general meeting of the members called for the purpose of considering the same and any such contract, act or transaction that shall be approved or ratified or confirmed by a resolution passed by a majority of the votes cast at any such meeting (unless any different or additional requirement is imposed by the Act or by the Articles of Incorporation) shall be as valid and as binding upon the Corporation and upon all the members as though it has been approved, ratified or confirmed by every member of the Corporation.

## **MEMBERS**

44. Entitlement - The members of the Corporation shall be the applicants for incorporation of the Corporation and those persons as may from time to time be admitted into membership by resolution of the Board of Directors or who shall be admitted by the Secretary in accordance with any rules for membership in the Corporation which have been approved by resolution of the Board of Directors. Each member shall be promptly informed by the Secretary of his or her admission as a member.
45. Resignation - Members may resign by resignation in writing which shall be effective from acceptance thereof by the Board of Directors. In the case of resignation, a member shall remain liable for payment of any assessment or other sum levied or which became payable by the member to the Corporation prior to acceptance by the Corporation.
46. Termination of Membership - The interest of a member in the Corporation is not transferable; and lapses and ceases to exist upon dissolution or when the member's period of membership expires (if any) or when the member ceases to be a member by resignation or otherwise in accordance with the By-laws; provided always that the members of the Corporation may, by resolution passed by at least two-thirds (2/3) of the votes cast at a general meeting, of which notice specifying the intention to pass such resolution has been given, terminate the membership of any member of the Corporation.
47. Rules and Regulations - The Board of Directors may from time to time enact rules and regulations relating to the rights and obligations of the members of the Corporation, but such rules and regulations shall not conflict with or be inconsistent with the By-laws or Articles of Incorporation.
48. Dues - There shall be no dues or fees payable by members except such, if any, as shall from time to time be by unanimous vote of the Board of Directors, which vote shall become effective only when confirmed by a vote of the members at an annual or other general meeting.

The Secretary shall notify the members of the dues or fees at any time payable by them and, if any are not paid within thirty (30) days of the date of such notice, the members in default shall thereupon automatically cease to be members of the Corporation, but such defaulting members may on payment of all unpaid dues or fees be reinstated by unanimous vote of the Board of Directors.

## **MEMBERS' MEETING**

49. Annual Meeting - Subject to compliance with the Act, the annual meeting of the members shall be held on such day in each year and at such time as the directors may by resolution determine at any place within Newfoundland or, in the absence of such determination, at the place where the head office of the Corporation is located.

At the annual meeting there shall be produced the financial report for the previous year, along with any relevant report, inclusive but not exclusive of, a report of the Board of Directors, and report of any committee/subcommittee.

At the annual meeting, there may be present the Board of Directors.

50. General Meetings - Other meetings of the members may be convened by order of the Chairperson of the Board, or by the Board of Directors at any date and time and at any place within Newfoundland or, in the absence of such determination, at the place where the head office of the Corporation is located. The Board of Directors shall call a general meeting of members on written requisition of not less than one-tenth of the members.
51. Notice - Subject to the Act, ten (10) days' written notice shall be given in the manner specified in paragraph 56 to each voting member of any annual or special general meeting of members. Notice of any meeting where special business will be transacted should contain sufficient information to permit the member to form a reasoned judgment on the decision to be taken.

## **EXECUTION OF INSTRUMENTS**

52. Execution of Instruments - Contracts, documents or instruments in writing requiring the signature of the Corporation must be signed jointly by:
- A. The Treasurer and any one of either the Chairperson or the Vice-Chairperson, shall sign all contracts, documents and instruments in writing so signed shall be binding upon the Corporation without any further authorization or formality. The Board of Directors shall have power from time to time by resolution to appoint any officer or officers or any person or persons on behalf of the Corporation either to sign contracts, documents and

instruments in writing generally or to sign specific contracts, documents or instruments in writing.

The seal of the Corporation may when required be affixed to contracts, documents and instruments in writing signed as aforesaid or by any officer or officers, person or persons, appointed as aforesaid by resolution of the Board of Directors.

The term “contracts, documents or instruments in writing” as used in this By-law shall include deeds, mortgages, hypothecs, charges, conveyances, transfer and assignments of property real or personal, immovable or movable, agreements, releases, receipts and discharges for the payment of money or other obligations, conveyances, transfers and assignments of shares, share warrants, stocks, bonds, debentures or other securities and all paper writings.

In particular without limiting the generality of the foregoing:

The Treasurer and any one of the Chairperson or Vice-President shall have authority to sell, assign, transfer, exchange, convert or convey any and all shares, stocks, bonds, debentures, rights, warrants or other securities owned by or registered in the name of the Corporation and to sign and execute (under the seal of the Corporation or otherwise) all assignments, transfers, conveyances, powers of attorney and other instruments that may be necessary for the purpose of selling, assigning, transferring, exchanging, converting or conveying any such shares, stocks, bonds, debentures, rights, warrants or other securities.

### **CHEQUES, DRAFTS, NOTES, ETC.**

53. Cheques, Drafts, Notes, etc. - All cheques, drafts or orders for payment of money and all notes and acceptances and bills of exchange shall be signed by such officer or officers or person or persons, whether or not officers of the Corporation, and in such manner as the Board of Directors may from time to time designate by resolution.

### **NOTICES**

54. Service - Any notice or other document required by the Act, the Regulations, the Letters Patent, or by the By-laws to be sent to any member or director or to the auditor shall be delivered personally or sent by prepaid mail or by telegram or cable or facsimile to any such member or director at their latest address as shown in the records of the Corporation and to the auditor as its business address, or if no address be given therein then to the last address of such member or director known to the Secretary; provided always that notice may be

waived or the time for the notice may be waived or abridged at any time with the consent in writing of the person entitled thereto.

55. Signature to Notices - The signature of any director or officer of the Corporation to any notice or document to be given by the Corporation may be written, stamped, typewritten or printed or partly written, stamped, typewritten or printed.
56. Computation of Time - Where a given number of day's notice or notice extending over a period is required to be given under the By-laws, Articles of Incorporation or Amended Articles of Incorporation, the day of service or posting of the notice shall not, unless it is otherwise provided be counted in such number of days or other period.
57. Proof of Service - With respect to every notice or other document sent by post it shall be sufficient to prove that the envelope or wrapper containing the notice or other document was properly addressed as provided in paragraph 56 of this By-law and put into a post office or into a letter box. A certificate of an officer of the Corporation in office at the time of the making of the certificate as to facts in relation to the sending or delivery of any notice or other document to any member, director, officer or auditor or publication of any notice or other document shall be conclusive evidence thereof and shall be binding on every member, director, officer or auditor of the Corporation as the case may be.
58. By-laws - The Board of Directors may from time to time enact By-laws relating in any way to the Corporation or to the conduct of its affairs, including, but not limited to, By-laws providing amendment to the Articles of Incorporation, and may from time to time by law amend, repeal or re-enact the By-laws and any such By-law shall be sanctioned by the members and become effective in accordance with the Act.

## **AUDITORS**

59. Auditors - There shall be completed annually by the Corporation, a budget for the upcoming year, and financial statements for the preceding year, as is common practice and is necessary for the operation of the Corporation. Financial statements should be compiled annually, and if required by the Board, reviewed or audited, by a licensed public accountant selected by the Board.

The members shall, at the relevant annual meeting, appoint a licensed public accountant to compile, review or audit the financial statements and the licensed public accountant shall hold office until the next following annual meeting. The remuneration of the licensed public accountant shall be fixed by the members selecting the accountant upon determining the nature of the engagement at the relevant time. The members may, by resolution passed by two-thirds of the votes cast at a general meeting of which notice of intention to pass the

resolution has been given, remove any licensed public accountant before expiration of his/her term of office and shall, by majority of the votes cast at that meeting, appoint another licensed public accountant for the remainder of the term.

**ENACTED this 10<sup>th</sup> day of September, 2003.**

**AMENDED this 2<sup>nd</sup> day of April, 2014.**

**AMENDED this 7<sup>th</sup> day of March, 2016**

**AMENDED this 27<sup>th</sup> day of March, 2017**