

# **Canadian Professional Golfers' Association of Ontario**

## GENERAL BY-LAW NUMBER 2016-1

### TABLE OF CONTENTS

		page #
1	INTERPRETATION .....	1
	1.01 Meaning of Words .....	1
2	DEDICATION .....	3
	2.01 Dedication .....	3
	2.02 Compliance By All Members and Candidates .....	3
3	MEMBERSHIP .....	3
	3.01 Composition .....	3
	3.02 Membership Term .....	4
	3.03 Members' Rights .....	4
	3.04 Termination of Membership .....	4
	3.05 Resignation of Membership; .....	4
	3.06 Transfer of Membership .....	4
	3.07 Membership Admission Process .....	4
	3.08 Assignment of Members to the Corporation.....	5
4	DUES AND ASSESSMENTS .....	5
	4.01 Membership Dues and Assessments.....	5
	4.02 Notice of Dues or Assessments .....	5
	4.03 Application and Other Fees.....	5
	4.04 Late Fees and Suspension For Non-Payment .....	5
	4.05 Restoration Upon Prompt Payment .....	5
	4.06 Reinstatement at Later Time .....	5
	4.07 Termination of Membership .....	5
5	CANDIDATE FOR MEMBERSHIP .....	6
	5.01 Candidate.....	6
	5.02 Resignation of Candidate .....	6
6	LEAVE OF ABSENCE .....	6
	6.01 Application for Leave of Absence.....	6
	6.02 Privileges of Member or Candidate On Leave of Absence .....	6
7	DISCIPLINE.....	6
	7.01 Discipline of Members by the PGA of Canada .....	6
	7.02 Appeal Rights.....	7
	7.03 No Compensation for Members .....	7
8	BOARD OF DIRECTORS.....	7
	8.01 Board.....	7
	8.02 Qualifications.....	8
	8.03 Removal of Directors.....	8
	8.04 Vacancies.....	8
	8.05 Remuneration of Directors .....	8
9	ELECTION OF THE BOARD.....	8
	9.01 Election of Directors .....	8

	9.02	Term of Office .....	9
	9.03	Re-Election.....	9
	9.04	Elections.....	9
	9.05	Nominations .....	9
	9.06	Forms .....	9
10		MEETING OF DIRECTORS .....	9
	10.01	Calling Meetings.....	9
	10.02	Meeting following Annual Meeting .....	9
	10.03	Regular Meetings .....	9
	10.04	Notice of Meetings .....	10
	10.05	Content of Notice .....	10
	10.06	Meetings by Electronic Conference .....	10
	10.07	Quorum .....	10
	10.08	Voting.....	10
	10.09	Written Resolutions .....	10
	10.10	Adjournments .....	11
11		MEETINGS OF THE MEMBERS .....	11
	11.01	Annual Meeting .....	11
	11.02	Meetings by Electronic Conference .....	11
	11.03	Special Meeting.....	11
	11.04	Requisitioning of Meetings .....	11
	11.05	Fixing a Record Date .....	11
	11.06	Notice of Meetings .....	12
	11.07	Those Entitled To Be Present .....	12
	11.08	Quorum .....	12
	11.09	Chair.....	13
	11.10	Voting by Members .....	13
	11.11	Proxies .....	13
	11.12	Ballot .....	13
	11.13	Adjournments .....	14
	11.14	Written Resolutions .....	14
12		BOARD REGULATIONS .....	14
	12.01	Board Regulations.....	14
13		OFFICERS .....	14
	13.01	Officers.....	14
	13.02	Executive Director May Attend All Meetings .....	14
	13.03	Remuneration of Officers or Employees .....	14
14		COMMITTEES.....	15
	14.01	Committees .....	15
	14.02	Limits on Authority of Committees .....	15
15		HERITAGE 21 FUND .....	15
	15.01	Heritage 21 Fund .....	15
	15.02	Heritage 21 Fund Management Committee .....	15
	15.03	Heritage 21 Fund Income.....	15
	15.04	Amendment to Heritage 21 Fund .....	16
16		CONFLICT OF INTEREST .....	16
	16.01	Conflict of Interest .....	16
17		PROTECTION OF DIRECTORS, OFFICERS AND OTHERS .....	16
	17.01	Insurance .....	16
	17.02	Liability Exclusion.....	16
	17.03	Indemnification of Directors, Officers and Others .....	17
	17.04	Discontinuing Insurance .....	17
18		EXECUTION OF DOCUMENTS .....	18

	18.01 Execution of Documents .....	18
19	BORROWING BY THE CORPORATION .....	18
	19.01 General Borrowing Authority .....	18
20	FINANCIAL YEAR .....	18
	20.01 Financial Year Determined.....	18
21	AUDITOR .....	18
	21.01 Annual Appointment.....	18
	21.02 Removal of Auditor.....	19
	21.03 Vacancy in the Office of Auditor.....	19
	21.04 Remuneration of Auditor .....	19
22	NOTICE .....	19
	22.01 When notice deemed given.....	19
	22.02 Declaration of Notice.....	19
	22.03 Computation of Time.....	20
	22.04 Omissions and Errors.....	20
	22.05 Waiver .....	20
23	BY-LAWS AND EFFECTIVE DATE .....	20
	23.01 Effective Date of this By-Law .....	20
	23.02 Amendments requiring Special Resolution .....	20
	23.03 By-Laws and Effective Date .....	<b>Error! Bookmark not defined.</b>
24	REPEAL OF PRIOR BY-LAWS .....	21
	24.01 Repeal.....	21
	24.02 Prior Acts.....	21

# **Canadian Professional Golfers' Association of Ontario**

## GENERAL BY-LAW NUMBER 2016-1

### **1 INTERPRETATION**

#### 1.01 Meaning of Words

In this By-Law and all other By-Laws, resolutions and Board Regulations of the Corporation, unless otherwise defined:

- (a) "Act" means the *Ontario Not-for-Profit Corporations Act, 2010*, and any act that may be substituted therefore, from time to time amended;
- (b) "Annual Business" shall include: consideration of the financial statements; consideration of the audit or review engagement report, if any; election of Directors; reappointment of the incumbent Auditor or person appointed to conduct a review engagement and an Extraordinary Resolution to have a review engagement instead of an audit or to not have an audit or a review engagement;
- (c) "Annual Meeting" means an annual meeting of Members as provided in section 11.01;
- (d) "Articles" means any document or instrument that incorporates the Corporation or modifies its incorporating document or instrument, including letters patent, supplementary letters patent, articles of amendment, articles of amalgamation, articles of arrangement, articles of continuance, articles of dissolution, articles of reorganization or articles of revival;
- (e) "Auditor" means the Auditor of the Corporation appointed pursuant to Article 21;
- (f) "Board" means the Directors of the Corporation from time to time;
- (g) "Board Regulation" means a regulation passed by the Board in accordance with Article 12;
- (h) "By-Law" means this by-law and any other by-law of the Corporation that may be in force;
- (i) "Candidate" means a candidate for membership described in Article 5;
- (j) "Class A Members" means those Members of the Corporation that hold Class A membership in PGA of Canada;
- (k) "Code of Professional Practice" means the code of professional practice described in section 2.02;
- (l) "Committee" means any Committee established by the Board;
- (m) "Corporation" means **Canadian Professional Golfers' Association of Ontario**;
- (n) "Director" means a Director elected pursuant to Article 8;
- (o) "Due Date" means, for the purpose of section 4.02, such date as may be fixed by the Board from time to time;
- (p) "documents", includes deeds, mortgages, hypothecs, charges, conveyances, transfers 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, bonds, debentures or other securities and all paper writings;

- (q) “Extraordinary Resolution” means a resolution that is submitted to a Special Meeting duly called for the purpose of considering the resolution and passed at the meeting, with or without amendment, by at least eighty per cent (80%) of the votes cast, or consented to by each Member of the Corporation entitled to vote at a meeting of the Members or by the Member’s attorney;
- (r) “Golf Professional” or “Professional Golfer” is a person qualified in knowledge and experience in the sport of golf, as determined from time to time by the Board, and who is qualified and/or eligible to be a Member of the Corporation;
- (s) “Government Regulations” means the regulations made under the Act as amended, restated or in effect from time to time;
- (t) “Heritage 21 Fund” means the endowment fund established with the payment of funds from the sale of the Corporation’s Golf Merchandise Show in the amount of Eight Hundred and Fifty Thousand Dollars (\$850,000.00);
- (u) “Member” means a person who has become a Member in accordance with section 3.01;
- (v) “National Board” means the board of directors of the PGA of Canada;
- (w) “Officer” means an officer elected or appointed pursuant to Article 13 or by Board Regulation;
- (x) “Ordinary Resolution” means a resolution that is (i) submitted to a meeting of the Members of the Corporation and passed at the meeting, with or without amendment, by at least a majority of the votes cast, or (ii) consented to by each Member of the Corporation entitled to vote at a meeting of the Members of the Corporation or by the Member’s attorney;
- (y) “PGA of Canada” means the Professional Golfers' Association of Canada/Association des golfeurs professionnels du Canada, a federal corporation continued under the *Canada Not-for-profit Corporations Act*, and which is the national body that governs those corporations or organizations that are its recognized Zones;
- (z) “PGA of Canada By-Laws” means the By-Laws of the PGA of Canada that may be in force from time to time;
- (aa) “PGA of Canada Members” means those persons who have been admitted to membership in the PGA of Canada by the National Board;
- (bb) “Policy” or “Policies” means those Policies developed and approved from time to time by the National Board;
- (cc) “Protected Person” means each person acting or having previously acted in the capacity of a Director, Officer or any other capacity at the request of or on behalf of the Corporation, and includes the respective heirs, executors and administrators, estate, successors and assigns of a person, who:
  - (i) is a Director of the Corporation;
  - (ii) is an Officer of the Corporation;
  - (iii) is a member of a committee of the Corporation; or

- (iv) has undertaken, or, with the direction of the Corporation is about to undertake, any liability on behalf of the Corporation or any body corporate controlled by the Corporation, whether in the person's personal capacity or as a Director, Officer, employee or volunteer of the Corporation or such body corporate;
- (dd) "Recognized Professional Golfers' Association" means a Professional Golfers' Association recognized as such by the National Board;
- (ee) "Special Business" includes all business transacted at a Special Meeting and all business transacted at an Annual Meeting, other than Annual Business;
- (ff) "Special Meeting" means a special meeting of Members called pursuant to section 11.03;
- (gg) "Special Resolution" means a resolution that is (i) submitted to a special meeting of the Members of the Corporation duly called for the purpose of considering the resolution and passed at the meeting, with or without amendment, by at least two-thirds of the votes cast, or (ii) consented to by each Member of the Corporation entitled to vote at a meeting of the Members of the Corporation or by the member's attorney
- (hh) "Written Resolution" means a resolution in writing signed by all the Directors or Members entitled to vote on that resolution at a meeting of the Board or the Members, as the case may be, and which is valid as if it had been passed at a meeting of the Board or Members;
- (ii) "Zone" means one of the geographical zones of Canada established by the National Board for which PGA of Canada Zone Associations have been designated to service; and
- (jj) "Zone Association" means those Golfers' Associations designated to service a particular Zone by PGA of Canada.

## **2 DEDICATION**

### **2.01 Dedication**

The Corporation mandates that its Members and Candidates maintain rigid observance of a Code of Professional Practice of the PGA of Canada, the parameters of which are determined from time to time by the National Board.

### **2.02 Compliance By All Members and Candidates**

The Corporation acknowledges that the Code of Professional Practice and the By-Laws shall govern and be strictly adhered to by all Members and Candidates at all times.

## **3 MEMBERSHIP**

### **3.01 Composition**

Subject to the Articles, there shall be one (1) class of Members in the Corporation. Membership in the Corporation shall be available only to those individuals who:

- (a) are interested in furthering the Corporation's purposes;
- (b) possess the qualifications prescribed from time to time by the National Board in its sole and absolute discretion; and

- (c) are members in good standing of the PGA of Canada, who have been assigned to membership in the Corporation by the National Board based on their prior admission as PGA of Canada members, as provided for in the PGA of Canada By-Laws, or are non-resident (unassigned), and who remain PGA of Canada Members in good standing.

### 3.02 Membership Term

The term of membership shall be from January 1 to December 31 in each year.

### 3.03 Members' Rights

Each Member shall be entitled to receive notice of, attend, speak at and vote at all meetings of the Members of the Corporation.

### 3.04 Termination of Membership

Membership in the Corporation automatically terminates upon the occurrence of any of the following events:

- (a) the resignation in writing of a Member of the Corporation pursuant to section 3.05;
- (b) the death of a Member;
- (c) if a Member ceases to be qualified pursuant to section 3.01;
- (d) the expiration of a Member's term of membership, provided that a Member whose membership has lapsed shall have the right to apply to the National Board for restoration of membership;
- (e) the expulsion of a Member from the Corporation in accordance with section 7.01;
- (f) the liquidation or dissolution of the Corporation under the Act; or
- (g) failure to pay dues and assessments as provided in Article 4.

### 3.05 Resignation of Membership:

A Member may resign at any time; provided that the Member is in good standing and is not indebted to the Corporation or to the PGA of Canada in any manner whatsoever. Resignations shall be in writing, shall be directed to the National Board and shall include the return of the Member's membership card or certificate. Before accepting the resignation, the National Board shall ensure that the Member has no outstanding indebtedness to the Corporation or to the PGA of Canada. Upon acceptance of the resignation, a refund of any eligible assessment paid shall be provided to the resigning Member pursuant to the Policies of the National Board.

### 3.06 Transfer of Membership

Membership in the Corporation is not transferable; provided that a person who is a member of a Recognized Professional Golfers' Association shall have the right to apply to transfer to membership in the PGA of Canada pursuant to the Policies of the National Board, which may result in assignment to membership in the Corporation.

### 3.07 Membership Admission Process

Members shall be admitted, restored or reinstated to the PGA of Canada in accordance with such admission processes as may be set out in the PGA of Canada By-Laws from time to time.

### 3.08 Assignment of Members to the Corporation

The National Board shall, when admitting or restoring a Member to membership in the PGA of Canada, assign the Member to the Corporation in accordance with the PGA of Canada By-Laws or Policies of the National Board, thereby making such persons Members of the Corporation.

## 4 DUES AND ASSESSMENTS

### 4.01 Membership Dues and Assessments

Members and Candidates, as applicable, shall be notified in writing of any membership dues or other assessments payable to the PGA of Canada in accordance with the PGA of Canada By-Laws. After consideration is given to the recommendations of the Board of Directors of the Corporation, the National Board shall be responsible, in its sole discretion, for allocating a portion of such dues to the Corporation.

For clarity, no membership dues shall be payable by any Member directly to the Corporation.

### 4.02 Notice of Dues or Assessments

Notice of an assessment shall be delivered to each Member or Candidate, as applicable, in the manner set out in section 22, not later than on the date fixed from time to time by the National Board, or if not fixed by the National Board, then sixty (60) days prior to the Due Date; such Notice shall include a statement that such dues or assessments must be received at the head office of the PGA of Canada on or before the Due Date.

### 4.03 Application and Other Fees

Application fees and any other fees referred to in the By-Laws shall be determined by the National Board. The provisions of section 4.02, with necessary variations, shall apply to all such fees.

### 4.04 Late Fees and Suspension for Non-Payment

A Member or Candidate shall be subject to late fees for non-payment of any assessment on or before the Due Date, and may be subject to ultimate suspension in accordance with the Policies of the National Board, including suspension from all privileges of the Corporation, written notice of which shall be given to the Member or Candidate, as applicable, and the suspension shall take effect on a date and time determined by the National Board, which shall be communicated to the Member or Candidate, as applicable, in accordance with the notice provisions contained in section 22.

### 4.05 Restoration Upon Prompt Payment

A Member or Candidate who has been given notice in accordance with section 4.04 shall be restored to good standing upon payment of the restoration fee determined pursuant to the Policies of the National Board, together with all outstanding assessments.

### 4.06 Reinstatement at Later Time

A Member or Candidate who has not been restored under section 4.05 may be reinstated as determined from time to time by the National Board.

### 4.07 Termination of Membership

Members of the Corporation who cease to remain as members in good standing of the PGA of Canada for any reason, including non-payment of assessments pursuant to section 7.01, shall automatically cease to be Members of the Corporation. Upon such cancellation, all of the rights and privileges of the Member or Candidate in the Corporation shall cease, and the name of such Member or Candidate shall be removed from the membership roster or candidacy records, as applicable.



## **5 CANDIDATE FOR MEMBERSHIP**

### **5.01 Candidate**

A Candidate is a person who may later be considered for admission as a Member, but is not yet qualified as a Member, and who meets the requirements of a Candidate as determined from time to time by the National Board.

At the sole discretion of the National Board, a Candidate who resides or works in the Zone in which the Corporation has been assigned, may be assigned to the Corporation.

A Candidate shall have such rights and privileges, and be subject to such dues and assessments, as shall be determined from time to time by the National Board.

For greater certainty, a Candidate is not a Member of the Corporation and, as a Candidate, has no rights and privileges of membership.

### **5.02 Resignation of Candidate**

A Candidate may resign at any time; provided that the Candidate is in good standing and is not indebted to the Corporation or to the PGA of Canada in any manner whatsoever. Resignations shall be in writing and shall be directed to the National Board. Before accepting the resignation, the National Board shall ensure that the Candidate has no outstanding indebtedness to the Corporation or to the PGA of Canada. Upon acceptance of the resignation, a refund of any eligible assessment paid shall be provided to the resigning Candidate pursuant to the Policies of the National Board.

## **6 LEAVE OF ABSENCE**

### **6.01 Application for Leave of Absence**

A Member or Candidate may apply at any time to the National Board for a leave of absence, as provided for in the PGA of Canada By-Laws from time to time.

### **6.02 Privileges of Member or Candidate on Leave of Absence**

A Member or Candidate who has been granted a leave of absence shall only have those privileges as are provided in the PGA of Canada By-Laws.

## **7 DISCIPLINE**

### **7.01 Discipline of Members by the PGA of Canada**

- (a) The Corporation's Board of Directors has to authority to expel any member of the Corporation upon at least fifteen (15) days' prior written notice to a Member, the Board may pass a resolution authorizing disciplinary action in respect of such Member or the termination of such Member's membership. The notice shall set out the reasons for the proposed disciplinary action or termination of membership. The Member receiving such notice shall be entitled to give the Board a written submission opposing the proposed disciplinary action or termination of membership not less than five (5) days before the end of the 15-day period. The Board shall consider any written submission made by the Member before making a final decision regarding disciplinary action or termination of membership.
- (b) The National Board has authority to discipline, or suspend any member of the PGA of Canada pursuant to the Code of Professional Practice or pursuant to the Policies of the National Board; including for anyone (1) or more of the following grounds:

- (i) violating any provision of the articles, by-Laws, Code of Professional Practice or written Policies of the National Board;
  - (ii) carrying out any conduct which may be detrimental to the PGA of Canada or the Corporation as determined by the National Board in its sole discretion;
  - (iii) for non-payment of dues or assessments pursuant to section 4.07; or
  - (iv) for any other reason that the National Board, in its sole and absolute discretion, considers to be reasonable, having regard to the purposes of the Corporation.
- (c) For clarity, by virtue of section 3.01(c), any disciplinary action taken by the PGA of Canada toward any of its members (the “Disciplined Members”) who have been assigned by the PGA of Canada as Members of the Corporation, affecting the membership rights and privileges of the Disciplined Members in the PGA of Canada, shall automatically extend to the membership rights and privileges of the Disciplined Members in the Corporation.
- (d) Any discipline, suspension or expulsion by the National Board of any PGA of Canada member that has been assigned as a Member of the Corporation shall be implemented as necessary by the Corporation in accordance with the Policies of the Board, in existence from time to time.

#### 7.02 Appeal Rights

The decision of the National Board may be appealed by an expelled Member to the National Board, which appeal shall be heard in accordance with the discipline process contained in the PGA of Canada By-Laws. The National Board’s decision shall be final and binding on the Disciplined Member and the Corporation, without any further right of appeal.

#### 7.03 No Compensation for Members

A Disciplined Member shall not be entitled to any compensation upon termination of membership.

### **8 BOARD OF DIRECTORS**

#### 8.01 Board

Subject to the Act, the affairs of the Corporation shall be managed by a Board consisting of nine (9) Directors, who, other than the immediate Past President who shall be an *ex officio* Director, shall be elected as Directors in accordance with section 9.01. The number of Directors may be increased or decreased as follows:

Prior to a meeting of the Members at which Directors will be elected, the Board will determine the number of Director-at-Large positions by Ordinary Resolution (this power to the Board is provided by Special Resolution of the voting Members) provided that:

- a) The number of Directors-at-Large plus the number of other Directors present on the Board, or elected at the meeting, does not exceed the maximum number of Directors specified in the Articles;
- b) The number of Directors-at-Large plus the number of other Directors present on the Board, or elected at the meeting, does not fall below the minimum number of Directors specified in the Articles; and
- c) The determination of the number of Director-at-Large positions on the Board does not have the effect of shortening the term of a sitting Director

## 8.02 Qualifications

Each Director shall:

- (a) at the time of election, have been a Member of the Corporation for a period of not less than one (1) year;
- (b) be an individual who is at least eighteen (18) years of age;
- (c) not have the status of a bankrupt;
- (d) not be a person who has been found under the *Substitute Decisions Act, 1992* or under the *Mental Health Act* to be incapable of managing property; and
- (e) not be a person who has been declared incapable by any court in Canada or elsewhere.

If a person ceases to be qualified as provided in this section 8.02, the person thereupon ceases to be a Director and the vacancy so created may be filled in the manner prescribed by section 8.04.

## 8.03 Removal of Directors

- (a) The Members may remove a Director from office before the expiration of the Director's term of office as follows except persons who are Directors by virtue of their office:
  - (i) by Ordinary Resolution passed by the Members at a Special Meeting.
- (b) The Members may elect a person to replace the removed Director for the remainder of the term of office.
- (c) Where the Members do not fill the vacancy created by the removal of a Director, the vacancy may be filled in accordance with section 8.04.

## 8.04 Vacancies

- (a) Except as provided in the Act, so long as a quorum of the Directors remains in office, a vacancy on the Board may be filled by resolution of the Directors of the Corporation. If no quorum of Directors exists, the remaining Directors shall call a Special Meeting to fill a vacancy on the Board. A Director who is elected or appointed to fill a vacancy shall hold office for the unexpired term of the Director's predecessor.
- (b) The Directors are not required to fill a vacancy resulting from an increase in the number or the minimum or maximum number of Directors provided for in the Articles or a failure to elect the number or minimum number of Directors provided for in the By-Laws or Articles.

## 8.05 Remuneration of Directors

The Directors of the Corporation shall serve as such without remuneration. Directors shall, however, be entitled to receive reimbursement for reasonable expenses incurred in carrying out their duties on behalf of the Corporation.

# **9 ELECTION OF THE BOARD**

## 9.01 Election of Directors

Subject to the provisions of the Act and the Articles, Directors, other than the immediate Past President who shall be an *ex officio* Director, shall be elected by the Members entitled to vote.

#### 9.02 Term of Office

The term of office of each Director shall be one year, to expire at the next Annual Meeting following election, or, if no successor is elected at the Annual Meeting, to expire when a successor is elected.

#### 9.03 Re-Election

Other than for an *ex officio* Director, a Director shall be eligible to serve for an unlimited number of consecutive terms.

#### 9.04 Elections

At each Annual Meeting, a number of Directors equal to the number of Directors retiring plus any vacancies then outstanding shall be elected.

#### 9.05 Nominations

Candidates for the office of Director shall comprise the slate of candidates for office proposed by the Nominating Committee, or if there is no Nominating Committee, by the Board. There shall be no nominations from the floor of the meeting at which Directors are elected.

#### 9.06 Forms

The Board may prescribe the form of nomination paper and the form of a ballot.

#### 9.07 Consent

An individual who is elected or appointed to be a Director must register with the Corporation as a Director, must sign all required documents presented by the Corporation, and must consent in writing to hold office as a Director before or within ten (10) days of their election or appointment. Any individual who does not provide consent within the time limit is not a Director and is deemed not to have been elected or appointed to hold office as a Director. The requirement to consent does not apply to a Director who is re-elected or reappointed when there has been no break in their term of office.

### **10 MEETING OF DIRECTORS**

#### 10.01 Calling Meetings

Meetings of the Board may be called by the President, any such person as the President directs, or any three (3) Directors and shall be held at the place specified in the notice.

#### 10.02 Meeting following Annual Meeting

The Board shall hold a meeting as soon as reasonably possible following the Annual Meeting of the Corporation for the purpose of organization, the election and appointment of Officers and the transaction of any other business, and no notice shall be required for this meeting.

#### 10.03 Regular Meetings

The Board may appoint one (1) or more days in each year for regular meetings of the Board at a set place and time. A copy of any resolution of the Board fixing the place and time of such regular meetings of the Board shall be sent to each Director as soon as possible after being passed, but no other notice shall be required for any such regular meeting except as may be required pursuant to the Act.

#### 10.04 Notice of Meetings

Subject to the provisions of sections 10.02 and 10.03, notice of the time, place and date of any meeting of the Directors and the nature of the business to be conducted shall be given to each Director by mail, courier, personal delivery, telephone, fax, e-mail or other electronic means at least ten (10) days before the meeting is to take place, excluding the date on which notice is given.

#### 10.05 Content of Notice

Any notice of a Board meeting shall specify the nature of the business to be conducted if the meeting is intended to:

- (a) submit to the Members any question or matter requiring approval of the Members;
- (b) fill a vacancy among the Directors, in the office of Auditor or of a person appointed to conduct a review engagement of the Corporation;
- (c) appoint additional Directors;
- (d) issue debt obligations except as authorized by the Board;
- (e) consider the financial statements;
- (f) adopt, amend or repeal any By-Law; or
- (g) establish contributions to be made, or dues to be paid, by Members.

#### 10.06 Meetings by Electronic Conference

- (a) If all the Directors consent generally, or in respect of a particular meeting, any person entitled to attend a meeting of Directors may participate in a meeting by means of an electronic or other communication device that permits all participants to communicate adequately with each other during the meeting. Any person participating by electronic conference is deemed to be present at that meeting. Any security, confidentiality or other considerations with respect to the conduct of such a meeting shall be as determined by the Board from time to time.
- (b) Provided that at the outset of each such meeting, and whenever votes are required, the chair of the meeting shall confirm that a quorum is present.

#### 10.07 Quorum

A quorum for the transaction of business at meetings of the Board shall be at least a majority of the Directors. No business shall be conducted at any meeting of the Board unless a quorum of Directors is present throughout the meeting.

#### 10.08 Voting

The method of voting at any meeting of the Board shall be determined by the chair of the meeting prior to any vote being taken. Unless this By-law states otherwise, each Director shall have one (1) vote on each question raised at any meeting of the Board, and all questions shall be determined by a majority of the votes cast. In the case of an equality of votes, the vote shall be deemed to have been lost.

#### 10.09 Written Resolutions

A Written Resolution, signed by all the Directors entitled to vote on that resolution at a meeting of Directors, is valid.

## 10.10 Adjournments

Any meeting of Directors may be adjourned to any time. Any business that might have been transacted at the original meeting from which the adjournment took place may be transacted upon the resumption of the adjourned meeting. No notice is required for the resumption of any adjourned meeting if the time and place of the adjourned meeting is announced at the original meeting.

## 11 MEETINGS OF THE MEMBERS

### 11.01 Annual Meeting

- (a) An Annual Meeting shall be held within Ontario unless a place outside Ontario is specified in the Articles or all Members entitled to vote at the meeting consent to holding the Annual Meeting at a place outside Ontario, determined by the Board, for the purpose of conducting the Annual Business and any Special Business.
- (b) The Annual Meeting shall be held not later than fifteen (15) months following the last Annual Meeting provided that any Annual Meeting shall be held within six (6) months of the financial year end of the Corporation.

### 11.02 Meetings by Electronic Conference

- (a) A Member may participate in a meeting of Members by means of an electronic or other communication device that permits all participants to communicate adequately with each other during the meeting. Any person participating by electronic conference is deemed to be present at that meeting. Any security, confidentiality or other considerations with respect to the conduct of such a meeting shall be as determined by the Board from time to time.
- (b) The Directors may call a meeting of the Members and provide that the meeting be held entirely by telephone or electronic means that permits all participants to communicate adequately with each other during the meeting.

### 11.03 Special Meeting

The Board may at any time call a Special Meeting for the transaction of any business specified in the notice calling the meeting. A Special Meeting may be held separately from or together with an Annual Meeting.

### 11.04 Requisitioning of Meetings

Upon written request to the Secretary signed by not less than one-tenth (1/10) of the Members of the Corporation setting out in detail the nature of the business to be considered, a general meeting of Members may be requisitioned pursuant to the provisions of the Act.

### 11.05 Fixing a Record Date

The Directors may fix a record date for each meeting to determine which Members are entitled to receive notice of the meeting and are entitled to vote at the meeting. A record date for providing notice must not be more than fifty (50) days before the day on which notice is sent and a record date for determining Members entitled to vote shall be at least fourteen (14) days, but not more than fifty (50) days, before the day the meeting is to be held. If the Directors do not fix a record date for which Members are entitled to receive notice of the meeting or to vote at such meeting, then the day shall be at the close of business on the day immediately preceding the day on which notice is given or if no notice is given, the day of the meeting.

### 11.06 Notice of Meetings

Notice of the time, place and date of any Annual Meeting or Special Meeting and sufficient information for a Member to make a reasoned judgment on any Special Business to be considered, including information on any Special Resolution to be submitted to the meeting, shall be given to each Member entitled to vote at the meeting, to each Director and to the Auditor or the person appointed to conduct a review engagement of the Corporation not less than ten (10) days and not more than fifty (50) days before the day on which the meeting is to be held by:

- (a) mail, courier or personal delivery;
- (b) telephone, fax, e-mail or other electronic means;
- (c) posting the notice on a notice board where such information is regularly posted and that is located in a place frequented by the Members; or
- (d) in a publication of the Corporation sent to call Members entitled to vote.

### 11.07 Those Entitled to Be Present

The only persons entitled to be present at a meeting of Members shall be:

- (a) those entitled to vote at the meeting, including Members and proxy holders;
- (b) the Directors and the Auditor or the person appointed to conduct a review engagement of the Corporation; and
- (c) such other persons who are entitled or required under any provision of the Act, the Articles or By-Laws of the Corporation to be present at the meeting.

Any other person may be admitted only on the invitation of the President or by Ordinary Resolution of the Members.

### 11.08 Quorum

- (a) A quorum for the transaction of business at meetings of the Members shall be at least ten (10) Members of the Corporation entitled to vote, present in person or represented by proxy, with at least two (2) Members of the Corporation who also serve on the Corporation's Board present in-person.
- (b) No business shall be transacted at any meeting of the Members unless the necessary quorum is present at the commencement of such meeting.
- (c) Provided however that where:
  - (i) less than a quorum, but two (2) or more, persons are present in person one-half hour after the commencement time specified in the notice calling the meeting of Members; or
  - (ii) the business transacted is limited to the selection of a chair and a secretary for the meeting, the recording of the names of those present, and the passing of a motion to adjourn the meeting with or without specifying a date, time and place for the resumption of the meeting,

then two (2) persons present in person constitute a quorum.
- (d) If a quorum is not present within one hour of the scheduled time for the meeting as set out in the Notice of meeting, a meeting of Members, the Members present may adjourn the meeting to a fixed time and place.

### 11.09 Chair

In the absence of the President and the Vice-President, the Members present and entitled to vote and present at any meeting of Members shall choose another Director as chair. If no Director is present or if all the Directors present decline to act as chair, the Members present and entitled to vote shall choose a Member to act as chair of the meeting.

### 11.10 Voting by Members

- (a) The method of voting at any meeting of the Members shall be determined by the chair of the meeting prior to any vote being taken. Each Member shall have one (1) vote on each question raised at any meeting of the Members, and all questions shall be determined by Ordinary Resolution, unless otherwise specified. In the case of an equality of votes, the question is lost.
- (b) At all meetings of Members every question shall be decided by a show of hands unless otherwise required by a By-Law of the Corporation, the Act or unless a ballot is required by the chair of the meeting or requested by any Member. Whenever a vote by show of hands has been taken upon a question, unless a ballot is requested, a declaration by the chair of the meeting that a resolution has been carried or lost by a particular majority and an entry to that effect in the minutes of the Corporation is conclusive evidence of the fact without proof of the number or proportion of votes recorded in favour of or against the motion.

### 11.11 Proxies

- (a) Every Member entitled to vote at meetings of Members may, by means of a proxy, appoint a person to attend the meeting on the Member's behalf to act in the manner, to the extent and with the power conferred by the proxy and the Government Regulations. A proxy shall be in writing. The proxy holder need not be a Member.
- (b) A proxy shall be executed by:
  - (i) the Member entitled to vote; or
  - (ii) the attorney of the Member entitled to vote authorized in writing under a valid power of attorney.
- (c) A proxy is valid only at the meeting for which it is given or at the continuation of that meeting after an adjournment.
- (d) Subject to the Government Regulations, a proxy may be in such form as the Board prescribes or in such other form as the chair of the meeting may accept as sufficient.
- (e) A proxy shall be deposited with the secretary of the meeting before any vote is called under its authority, or at such earlier time and in such manner as the Board may prescribe. The Board may set a deadline to deposit proxies, such deadline shall not exceed forty-eight (48) hours, excluding Saturdays and holidays before the meeting.

### 11.12 Ballot

A Member can demand a ballot during the meeting either before or after any vote by show of hands. If at any meeting a vote by ballot is requested on the election of a chair, it must be taken forthwith without adjournment. If a vote by ballot is requested on any other question, it shall be taken in the manner and time as the chair of the meeting directs. The result of a vote by ballot shall be deemed to be the resolution of the meeting at which it was requested. A request for a vote by ballot may be withdrawn at any time prior to the taking of the ballot.



### 11.13 Adjournments

Any meeting of Members may be adjourned to any time by the chair of the meeting. Any business that might have been transacted at the original meeting from which the adjournment took place may be transacted upon the resumption of the adjourned meeting. No notice is required for the resumption of any adjourned meeting where the resumption of the meeting occurs less than thirty (30) days from the date of the original meeting, other than an announcement at a meeting that is adjourned.

### 11.14 Written Resolutions

A Written Resolution signed by all the Members entitled to vote on that resolution at a meeting of Members, including an Annual Meeting, is valid as if it had been passed at a meeting of Members, provided that the following matters may not be dealt with by Written Resolution:

- (a) the resignation, removal or replacement of a Director, where a written statement has been submitted by the Director giving reasons for resigning or opposing his or her removal or replacement; and
- (b) the resignation, removal or replacement of an Auditor, where a written statement has been submitted by the Auditor giving reasons for resigning or opposing his or her removal or replacement.

## 12 BOARD REGULATIONS

### 12.01 Board Regulations

The Board may make Board Regulations and policies with regard to any matter not inconsistent with the Act and the By-Laws.

## 13 OFFICERS

### 13.01 Officers

There shall be a President, Vice-President, a Secretary and such other Officers that may be elected or appointed by the Directors from time to time. Subject to the Act, the Articles and the By-Laws, the terms and duties of such Officers shall be defined by Board Resolution passed by the Board from time to time.

### 13.02 Executive Director May Attend All Meetings

The Executive Director, if any, shall have the right to receive notice of, to attend and to speak at but not to vote at all meetings of the Board, any committee of the Board and any meeting of the Members, except those meetings where the terms of employment, compensation or performance of the Executive Director are discussed.

### 13.03 Remuneration of Officers or Employees

Any Officer, who is a Director, shall not be entitled to remuneration for acting as such, but shall be entitled to reimbursement for reasonable expenses incurred in carrying out their duties. The Board shall fix the remuneration of the Executive Director, if any. The Board shall fix the remuneration of any other Officers or employees or may delegate such responsibility to the Executive Director.

**14 COMMITTEES**

14.01 Committees

Subject to the Act and the By-Laws, the Board may, by Board Regulation, appoint such committees as it deems appropriate from time to time and set the rules governing such committees.

14.02 Limits on Authority of Committees

No committee has authority to:

- (a) submit to the Members any question or matter requiring approval of the Members;
- (b) fill a vacancy among the Directors or in the office of Auditor or of a person appointed to conduct a review engagement of the Corporation;
- (c) appoint additional Directors;
- (d) issue debt obligations except as authorized by the Board;
- (e) approve any financial statements;
- (f) adopt, amend or repeal any By-Law; or
- (g) establish contributions to be made, or dues to be paid, by Members.

**15 HERITAGE 21 FUND**

15.01 Heritage 21 Fund

The Board of Directors may from time to time pay into the Heritage 21 Fund any surplus revenue earned or generated by the Corporation.

15.02 Heritage 21 Fund Management Committee

- (a) The Heritage 21 Fund shall be managed by a Committee of five (5) Class A Members of the Corporation, such Committee to be comprised of:

President \_\_\_\_\_

Treasurer \_\_\_\_\_

\_\_\_\_\_

- (b) Other than the President and Treasurer, the three (3) remaining members of the Committee are to be elected in rotation at the fall general meetings, to serve for a term of three (3) years. It is expressly understood that the three (3) members at large shall rotate wherein one (1) member shall be replaced each year.

15.03 Heritage 21 Fund Income

- (a) To pay income received and earned from the Heritage 21 Fund into the Heritage 21 Fund until such time as the Heritage 21 Fund has been funded to the extent of One Million Dollars (\$1,000,000.00).
- (b) Upon the Heritage 21 Fund attaining the amount of One Million Dollars (\$1,000,000.00), thereafter the income received and earned from the Heritage 21 Fund shall be paid into the general account of the Corporation as general revenues for the betterment of the Corporation. Provided, however, the Board of Directors may in their absolute discretion pay into the Heritage 21 Fund any surplus revenues from

the income derived therefrom on an annual basis, and upon payment of any such monies, such monies shall form part of the Heritage 21 Fund.

#### 15.04 Amendment to Heritage 21 Fund

The provisions of the Heritage 21 Fund shall only be amended upon such time as the Board of Directors submit the proposed amendment to the Class A Members of the Corporation and upon the approval by the Class A Members of the Corporation by ballot and wherein one-half (1/2) of the Members plus one (1) approve such amendment.

### 16 **CONFLICT OF INTEREST**

#### 16.01 Conflict of Interest

In accordance with the Act and any Board Regulations, Directors and Officers shall disclose any interests, whether direct, indirect or imputed, in any matter as required by the Act and comply with all other requirements in the Act in respect of such conflict of interest.

### 17 **PROTECTION OF DIRECTORS, OFFICERS AND OTHERS**

#### 17.01 Insurance

- (a) The Corporation shall purchase and maintain appropriate liability insurance for the benefit of the Corporation and each Protected Person. The insurance shall address coverage limits in amounts per occurrence with an aggregate maximum limit as deemed appropriate by the Board and shall include:
  - (i) property and public liability insurance;
  - (ii) Directors' and Officers' insurance; and
  - (iii) may include such other insurance as the Board sees fit.
- (b) The Corporation shall ensure that each Protected Person is included as an insured person in any policy of Directors' and Officers' insurance maintained by the Corporation.
- (c) No coverage shall be provided for any liability relating to a failure to act honestly and in good faith with a view to the best interests of the Corporation.
- (d) It shall be the obligation of any person seeking insurance coverage or indemnity from the Corporation to co-operate fully with the Corporation in the defence of any demand, claim or suit made against such person, and to make no admission of responsibility or liability to any third party without the prior agreement of the Corporation.

#### 17.02 Liability Exclusion

Absent the failure to act honestly and in good faith in the performance of the duties of office, and save as may be otherwise provided in any legislation or law, no Protected Person shall be personally liable for any loss or damage or expense to the Corporation arising out of the acts (including wilful, negligent or accidental conduct), receipts, neglects, omissions or defaults of such Protected Person or of any other Protected Person arising from any of the following:

- (a) insufficiency or deficiency of title to any property acquired by the Corporation or for or on behalf of the Corporation;
- (b) insufficiency or deficiency of any security in or upon which any of the monies of or belonging to the Corporation shall be placed out or invested;

- (c) loss or damage arising from the bankruptcy or insolvency of any person, firm or corporation including any person, firm or corporation with whom or which any monies, securities or effects shall be lodged or deposited;
- (d) loss, conversion, misapplication or misappropriation of or any damage resulting from any dealings with monies, securities or other assets belonging to the Corporation;
- (e) loss, damage or misfortune whatever which may occur in the execution of the duties of the Protected Person's respective office or trust or in relation thereto; and
- (f) loss or damage arising from any wilful act, assault, act of negligence, breach of fiduciary or other duty or failure to render aid of any sort.

#### 17.03 Indemnification of Directors, Officers and Others

- (a) Every Protected Person shall be indemnified and saved harmless, including the right to receive the first dollar payout, and without deduction or any co-payment requirement to a maximum limit per claim made as established by the Board from and against all costs, charges and expenses which such protected person sustains or incurs:
  - (i) in or in relation to any demand, action, suit or proceeding which is brought, commenced or prosecuted against such person in respect of any act, deed, matter or thing whatsoever, made, done or permitted or not permitted by such person, in or in relation to the execution of the duties of such office or in respect of any such liability; or
  - (ii) in relation to the affairs of the Corporation generally;

save and except such costs, charges or expenses as are occasioned by the failure of such person to act honestly and in good faith in the performance of the duties of office.
- (b) Such indemnity will only be effective:
  - (i) upon the exhaustion of all available and collectible insurance provided to the Protected Person by the Corporation inclusive of whatever valid and collectible insurance has been collected; and
  - (ii) provided that the Protected Person has carried out all duties assigned to such person which are subject of the claim in complete good faith so as to comply with the conditions of the insurance policy concerning entitlement to coverage.
- (c) The Corporation shall also indemnify any Protected Person, firm or corporation in such circumstances designated by law, upon approval by the Board.
- (d) Nothing in this Article 17 shall limit the legal right of any person, firm or corporation entitled to indemnity to claim indemnity apart from the provisions of this Article 17.

#### 17.04 Discontinuing Insurance

Where the Corporation has purchased or maintained insurance for any Protected Person, such insurance shall not be discontinued or altered except upon approval of the Members.

**18 EXECUTION OF DOCUMENTS**18.01 Execution of Documents

The Board may by Ordinary Resolution prescribe the person(s) authorized to execute classes of documents on behalf of the Corporation. All documents executed in accordance with any such resolution are binding on the Corporation without further action or formality.

**19 BORROWING BY THE CORPORATION**19.01 General Borrowing Authority

The Directors may, without authorization of the Members:

- (a) borrow money on the credit of the Corporation;
- (b) issue, reissue, sell, pledge or hypothecate debt obligations of the Corporation;
- (c) give a guarantee on behalf of the Corporation to secure performance of an obligation of any person; and
- (d) mortgage, hypothecate, pledge or otherwise create a security interest in all or any property of the Corporation, owned or subsequently acquired, to secure any obligation of the Corporation.

The Directors may delegate these powers to a Director, committee of Directors, or Officer.

**20 FINANCIAL YEAR**20.01 Financial Year Determined

The financial year of the Corporation shall terminate on the last day of December in each year or on such other date as the Board may determine.

**21 AUDITOR<sup>1</sup>**21.01 Annual Appointment

Subject to the Act, and the Government Regulations, the Members of the Corporation at each Annual Meeting shall:

- (a) while the Act is in force, and unless otherwise exempted pursuant to the Act, appoint an Auditor, who shall hold office until the close of the next Annual Meeting; or
- (b) appoint an Auditor or a person to conduct a review engagement of the Corporation, who shall hold office until the close of the next Annual Meeting, or pass an Extraordinary Resolution to dispense with an Auditor or to have a review engagement.

If an appointment is not made and the Members do not pass an Extraordinary Resolution to have a review engagement or dispense with an audit, then the incumbent Auditor continues in office until a successor is appointed.

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<sup>1</sup> In order to be appointed, the person must be permitted to conduct an audit or review engagement under the *Public Accounting Act, 2004* and be independent of the corporation and its affiliates. Section 75(7) – (9) requires that any new Auditor must request a statement from the previous Auditor or the new appointment is invalid. Corporations should request that the auditor provide them with confirmation that this request has been made.

**21.02 Removal of Auditor**

- (a) The Members may:
- (i) by Ordinary Resolution at a Special Meeting, remove any Auditor or a person appointed to conduct a review engagement before the expiration of the term of office in accordance with the Act;
- as applicable and may elect a replacement to fill such vacancy. Where the Members do not fill the vacancy, the Directors may do so in accordance with section 21.03.
- (b) The Corporation shall give the Auditor at least two (2) days to prepare a statement giving reasons opposing the Auditor's removal. The Auditor shall provide any such statement to the Board. Any such statement provided by the Auditor shall be included in the notice of the Special Meeting called to remove the Auditor.

**21.03 Vacancy in the Office of Auditor**

Subject to the Articles, the Board shall fill any vacancy in the office of Auditor or a person appointed to conduct a review engagement.

**21.04 Remuneration of Auditor**

The remuneration of an Auditor may be fixed by:

- (a) the Members by Ordinary Resolution, or if the Members do not do so, then the remuneration shall be fixed by the Directors.

**22 NOTICE****22.01 When notice deemed given**

When notice is given under the By-Laws by the following means, that notice is deemed to have been given at the following time:

- (a) if given by telephone, notice is deemed given at the time of the telephone call;
- (b) if given in writing by prepaid letter post to the last address shown on the Corporation's records, notice is deemed given on the third day after mailing;
- (c) if given in writing by courier or personal delivery, notice is deemed given when delivered;
- (d) if given by e-mail, notice is deemed given when sent;
- (e) if posted on a notice board pursuant to section 11.06(c), notice is deemed given on the date of posting; and
- (f) if provided by other electronic means, notice is deemed given when transmitted.

**22.02 Declaration of Notice**

At any meeting, the declaration of the secretary or chair of the meeting that notice has been given pursuant to this By-Law shall be sufficient and conclusive evidence of the giving of such notice. No formal notice of a meeting is necessary if all those entitled to notice are present or if those absent have signified their consent to the meeting being held without notice and in their absence.

### 22.03 Computation of Time

In computing the date when notice must be given under any provision in the By-Laws requiring a specified number of days' notice of any meeting or other event, a period of days is deemed to commence on the day following the event that began the period and is deemed to terminate at midnight of the last day of the period, except that if the last day of the period falls on a holiday, the period terminates at midnight of the next day that is not a holiday.

### 22.04 Omissions and Errors

- (a) Any resolution passed or proceeding taken at a meeting of the Board, a committee of the Board or Members shall, not be invalidated, unless otherwise challenged, by:
  - (i) an error in notice that does not affect its substance;
  - (ii) the accidental omission to give notice; or
  - (iii) the accidental non-receipt of notice by any Director, Member or Auditor.
- (b) Any Director, Member or Auditor may at any time waive notice of, and ratify and approve any proceeding taken at any meeting.

### 22.05 Waiver

Where a notice or document is required to be sent pursuant to the By-Laws, the Act or, the person entitled to receive the notice or document may consent in writing to waive either the sending of the notice or document or the time within which the notice or document must be sent.

## 23 BY-LAWS AND EFFECTIVE DATE

### 23.01 Effective Date of this By-Law

This By-Law shall come into force when enacted in accordance with the Act.

### 23.02 Amendments

Subject to **Section 23.03** (when applicable), these By-laws may only be amended, revised, repealed or added to by:

- a) Ordinary Resolution of the Board. The new, amended, or revised By-law is effective until the next meeting of the Members and, except for those amendments that are considered fundamental changes, the voting Members may confirm, reject or amend the By-laws by Ordinary Resolution. A new, amended, or revised By-law that is not ratified by the Members ceases to have effect and no new By-law of the same or like substance has any effect until ratified at a meeting of the Members; or
- b) A Member entitled to vote who may make a proposal to make, amend, or repeal a By-law in accordance with the Act which requires at least sixty (60) days' notice. The new, amended, or repealed By-law will be submitted to the Members at the next meeting of Members and, except for those amendments that are considered fundamental changes, the voting Members may confirm, reject or amend the By-laws by Ordinary Resolution

### 23.03 Fundamental Changes

A Special Resolution of all Members is required to make the following fundamental changes to the By-laws or articles of the Corporation. Fundamental Changes are defined as follows:

- a) Change the Corporation's name;
- b) Add, change or remove any restriction on the activities that the Corporation may carry on;

- c) Create a new category of Members;
- d) Change a condition required for being a Member;
- e) Change the designation of any category of Members or add, change or remove any rights and conditions of any such category;
- f) Divide any category of Members into two or more categories and fix the rights and conditions of each category;
- g) Add, change or remove a provision respecting the transfer of a membership;
- h) Increase or decrease the number of, or the minimum or maximum number of, Directors;
- i) Change the purposes of the Corporation;
- j) Change to whom the property remaining on liquidation after the discharge of any liabilities of the Corporation is to be distributed;
- k) Change the manner of giving notice to Members entitled to vote at a meeting of Members;
- l) Change the method of voting by Members not in attendance at a meeting of the Members; or
- m) Add, change or remove any other provision that is permitted by the Act

## **24 REPEAL OF PRIOR BY-LAWS**

### **24.01 Repeal**

Subject to the provisions of section 24.02 hereof, all prior By-Laws, resolutions and other enactments of the Corporation inconsistent in either form or content with the provisions of this By-Law are repealed.

### **24.02 Prior Acts**

The repeal of prior By-Laws, resolutions and other enactments shall not impair in any way the validity of any act or thing done pursuant to any such repealed By-Laws, resolution or other enactment.