

FORM 3

SOCIETY ACT

CONSTITUTION

1. The purposes of the Society are:
 - a) to support and market the tourism destination of Kelowna and the Kelowna Metropolitan Area in a sustainable manner that strengthens the local economy, and enriches the quality of life; and
 - b) to seek funding opportunities and manage funding for the support and marketing of tourism in Kelowna and the Kelowna Metropolitan Area.

BYLAWS

OF

TOURISM KELOWNA SOCIETY

PART 1 – INTERPRETATION

1. In these bylaws, unless the context otherwise requires:
 - a) **"directors"** means the directors of the society for the time being;
 - b) **"Kelowna Metropolitan Area"** means the City of Kelowna and those areas included in the Kelowna Census Metropolitan Area as determined from time to time by Statistics Canada on behalf of the Government of Canada;
 - c) **"member"** or **"membership"** in relation to membership of the society means the Stakeholders or the Stakeholding interest in the society;
 - d) **"society"** means the Tourism Kelowna Society;
 - e) **"Society Act"** means the Society Act of British Columbia from time to time in force and all amendments to it; and
 - f) **"registered address"** of a Stakeholder means the Stakeholder's address as recorded in the register of members.
2. The definitions in the *Society Act* on the date these bylaws become effective apply to these bylaws.
3. Words importing the singular include the plural and vice versa, and words importing a male person include a female person and a corporation.

PART 2 – MEMBERSHIP

4. The society shall have the following categories of membership:
 - a) Voting Stakeholders ("Voting Stakeholders"); and
 - b) Non-voting Stakeholders ("Non-Voting Stakeholders").(collectively the "Stakeholders" or the "Stakeholder").
5. Voting Stakeholders shall be those persons, including businesses, associations, or government bodies, who have an active place of business located within the Kelowna Metropolitan Area, who are admitted to the society and remain in good standing with the society, and who have financially contributed to the society through participation in any marketing project of the society for a period of twelve (12) months from the time of the most recent financial participation in a marketing activity of the society. Voting Stakeholders shall be voting stakeholders in the society and have full rights of membership.
6. Non-Voting Stakeholders shall be those persons, including businesses, associations, or government bodies, who are not admissible to the society as Voting Stakeholders and who are admitted to the society and remain in good standing with the society, and shall include persons who do not have an active place of business located within the Kelowna Metropolitan Area and who have not financially contributed to the society through participation in at least one (1) marketing project of the society during the preceding twelve (12) months. Non-Voting Stakeholders shall not be Voting Stakeholders in the society and shall be entitled to limited privileges only, excluding voting, as the society prescribes from time to time.
7. The Voting Stakeholders of the society are the applicants for incorporation of the society, and those persons who subsequently become Stakeholders, in accordance with these bylaws and, in either case, have not ceased to be Stakeholders.
8. A person may apply to the directors for membership in the society and on acceptance by the directors is a Stakeholder.
9. Every Stakeholder must uphold the constitution and comply with these bylaws and every Stakeholder must pay membership fees when due.
10. All accommodation properties in the Kelowna Metropolitan Area who collect the tax on accommodation in designated accommodation area as provided pursuant to the *Provincial Sales Tax Act* S.B.C. 2012, c. 35, and regulations enacted pursuant to the *Provincial Sales Tax Act* S.B.C. 2012, c. 35, as enacted from time to time, (the "Tax") and submit it to the Society are eligible to be Voting Stakeholders upon application to the directors pursuant to section 7 of these Bylaws and shall not be obligated to pay any membership fees for as long as the accommodation property continues to pay the Tax. In the event that the accommodation property ceases to pay the Tax, the accommodation property will become

Non-Voting Stakeholders unless they fulfill the criteria set out in section 4 as it relates to Voting Stakeholders and will be subject to any membership fees then in force.

11. The amount of the first annual stakeholder fees must be determined by the directors and after that the annual membership dues must be determined at the annual general meeting of the society.
12. A person ceases to be Stakeholder of the society:
 - a) by delivering his or her resignation in writing to the secretary of the society or by mailing or delivering it to the address of the society;
 - b) on his or her death or, in the case of a corporation, on dissolution;
 - c) on being expelled; or
 - d) on having been a Stakeholder not in good standing for Four (4) consecutive months.
13. A Stakeholder may be expelled by a special resolution of the Voting Stakeholders passed at a general meeting.
14. The notice of special resolution for expulsion must be accompanied by a brief statement of the reasons for the proposed expulsion.
15. The person who is the subject of the, proposed resolution for expulsion must be given an opportunity to be heard at the general meeting before the special resolution is put to a vote.
16. All Stakeholders are in good standing except a Stakeholder who has failed to pay his or her current annual membership fee, or any other subscription or debt due and owing by the member to the society, and the Stakeholder is not in good standing so long as the debt remains unpaid.

PART 3 – MEETINGS OF MEMBERS

17. General meetings of the society must be held at the time and place, in accordance with the *Society Act*, that the directors decide.
18. Every general meeting, other than an annual general meeting, is an extraordinary general meeting.
19. The directors may, when they think fit, convene an extraordinary general meeting.
20. Notice of a general meeting must specify the place, day and hour of the meeting, and, in case of special business, the general nature of that business.

21. The accidental omission to give notice of a meeting to, or the non-receipt of a notice by, any of the Voting Stakeholders entitled to receive notice does not invalidate proceedings at that meeting.
22. The first annual general meeting of the society must be held not more than Fifteen (15) Months after the date of incorporation and after that an annual general meeting must be held at least once in every calendar year and not more than Fifteen (15) Months after the holding of the last preceding annual general meeting.

PART 4 – PROCEEDINGS AT GENERAL MEETINGS

23. Special business is:
 - a) all business at an extraordinary general meeting except the adoption of rules of order; and
 - b) all business conducted at an annual general meeting, except the following:
 - i) the adoption of rules of order;
 - ii) the consideration of the financial statements;
 - iii) the report of the directors;
 - iv) the report of the auditor, if any;
 - v) election of Board of Directors;
 - vi) the appointment of the auditor, if required;
 - vii) the other business that, under these bylaws, ought to be conducted at an annual general meeting, or business that is brought under consideration by the report of the directors issued with the notice convening the meeting.
24. Business, other than the election of a chair and the adjournment or termination of the meeting, must not be conducted at a general meeting at a time when a quorum is not present.
25. If at any time during a general meeting there ceases to be a quorum present, business then in progress must be suspended until there is a quorum present or until the meeting is adjourned or terminated.
26. A quorum is half of the members of the Board plus one (1) and fifteen of the Voting Stakeholders in good standing, or a greater number that the Voting Stakeholders may determine at a general meeting.
27. If within Thirty (30) Minutes from the time appointed for a general meeting a quorum is not present, the meeting, if convened on the requisition of Voting Stakeholders, must be terminated, but in any other case, it must stand adjourned to the same day in the next week, at the same time and place, and if, at the adjourned meeting, a quorum is not present within Thirty (30) Minutes from the time appointed for the meeting, the Voting Stakeholders present constitute a quorum.

28. Subject to bylaw 29, the Chairperson of the Board of Directors of the society, the vice-Chairperson or, in the absence of both, one of the other directors present, must preside as chair of a general meeting.
29. If at a general meeting:
 - a) there is no Chairperson, vice-Chairperson or other director present within Fifteen (15) Minutes after the time appointed for holding the meeting; or
 - b) the Chairperson and all the other directors present are unwilling to act as the chair, the Voting Stakeholders present must choose one of their number to be the chair.
30. A general meeting may be adjourned from time to time and from place to place, but business must not be conducted at an adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place.
31. When a meeting is adjourned for Ten (10) Days or more, notice of the adjourned meeting must be given as in the case of the original meeting.
32. Except as provided in this bylaw, it is not necessary to give notice of an adjournment or of the business to be conducted at an adjourned general meeting.
33. A resolution proposed at a meeting need not be seconded, and the chair of a meeting may move or propose a resolution.
34. In the case of a tie vote, the chair does not have a casting or second vote in addition to the vote to which he or she may be entitled as a Stakeholder, and the proposed resolution does not pass.
35. Voting by proxy is not permitted.
36. A Stakeholder in good standing present at a meeting of Voting Stakeholders is entitled to one vote.
37. Voting is by show of hands or electronic voting if so arranged by the society from time to time.
38. Voting by proxy is not permitted.
39. A corporate Stakeholder may vote by its authorized representative, who is entitled to speak and vote, and in all other respects exercise the rights of a Stakeholder, and that representative must be considered as a Stakeholder for all purposes with respect to a meeting of the society.

PART 5 – DIRECTORS AND OFFICERS

40. The directors may exercise all the powers and do all the acts and things that the society may exercise and do, and that are not by these bylaws or by statute or otherwise lawfully

directed or required to be exercised or done by the society in a general meeting, but subject, nevertheless, to:

- a) all laws affecting the society;
 - b) these bylaws; and
 - c) rules, not being inconsistent with these bylaws that are made from time to time by the society in a general meeting.
41. A rule, made by the society in a general meeting, does not invalidate a prior act of the directors that would have been valid if that rule had not been made.
42. The society shall be governed by a board of directors (the “Board”) consisting of a maximum of eighteen (18) directors of which a maximum of twelve (12) shall be elected by the Voting Stakeholders as hereinafter provided (the “Elected Directors”) and a maximum of six (6) appointed by the Board (the “Appointed Directors”) as hereinafter provided. The number of directors may be amended from time to time at a general meeting. The Board shall be responsible for the stewardship of the Society and shall approve, on at least an annual basis, a strategic plan that takes into account the opportunities available to and risks affecting the Society.
43. The six (6) Appointed Directors shall be comprised of:
- a) the President of the Kelowna Hotel Motel Association, who shall be a voting member of the Board;
 - b) the Airport Director of the Kelowna International Airport, who shall be a voting member of the Board;
 - c) one (1) councilor for the City of Kelowna, who shall be a non-voting member of the Board;
 - d) one (1) councilor for the District of Lake Country, who shall be a non-voting member of the Board;
 - e) the past Chairperson of the Board of Directors (being the Chairperson from the preceding term or two (2) consecutive year terms, as the case may be), who shall be a voting member of the Board; and
 - f) one (1) individual that the Board deems, by a majority vote, to have skills or services related to the governance or operation of the Society and that whose participating would confer a benefit on the running of the Society, who, subject to section 44 of these bylaws, shall be a voting member of the Board.
44. For greater certainty any city, municipality, or district counsellor who is a member of the Board shall be a non-voting member.

45. Every Elected Director must be a Voting Stakeholder, or the authorized representative of a Voting Stakeholder where the Voting Stakeholder is not an individual, who is in good standing.
46. The Elected Directors must be from the following tourism industries, which must be represented among the Elected Directors in the following numbers:
- a) accommodation: 6 Elected Directors, with a maximum of one (1) of the 6 Elected Directors to be representing a bed and breakfast;
 - b) golf: 1 Elected Director;
 - c) skiing: 1 Elected Director;
 - d) wineries: 1 Elected Director;
 - e) attractions, retail, and restaurants: 1 Elected Director;
 - f) agritourism, not including wineries: 1 Elected Director; and
 - g) arts and culture: 1 Elected Director; and

in the event that there are no Voting Stakeholders who are eligible to be an Elected Director in any of the foregoing tourism industries, the Board may leave the position for the Elected Director vacant and the number of directors on the Board shall be correspondingly decreased.

47. The term of office for the Elected Directors shall be as follows:
- a) every Elected Director shall be elected for a two (2) year term;
 - b) notwithstanding the foregoing, immediately from the time of registration of the society the following Elected Directors shall hold the position for only one (1) year:
 - i) three (3) Elected Directors representing Accommodation;
 - ii) one (1) Elected Director representing Golf;
 - iii) one (1) Elected Director representing Wineries; and
 - iv) one (1) Elected Director representing Agritourism.

Following the conclusion of the one (1) year term, the positions for these Elected Directors shall become two (2) year terms. The purpose of this clause is to ensure that there be continuity in the Society by ensuring that only half of the Elected Directors are replaced in any given year.

48. Retiring Elected Directors shall be eligible for re-election provided that no Elected Director shall serve as an Elected Director for more than six (6) consecutive years (the "Maximum Term"). For the purposes of calculating the Maximum Term, partial terms

created as a result of a director filling a vacancy in a director position shall not be included. Notwithstanding the foregoing, an Elected Director who serves as the vice-Chairperson in the sixth (6th) consecutive year of being an Elected Director shall be eligible for re-election for one (1) further two (2) year term and after serving the additional two (2) year term shall not be eligible for re-election.

49. At least sixty (60) days before the annual general meeting, the Board shall form a Nominations Committee comprised of at least three (3) directors.
50. The Nominations Committee shall issue an open call for nominations from Voting Stakeholders and, based on the nominations the Nominations Committee receives, shall develop a list of recommended nominees for each available position and obtain the written consent and biographical information of each such recommended nominee. At least thirty (30) days before the annual general meeting, the Nominations Committee shall provide notice to all Voting Stakeholders of its recommendations together with biographical information.
51. In addition to recommendations of the Nominations Committee, nominations may be made by:
 - a) any Voting Stakeholder, or an individual on behalf of a Voting Stakeholder if the Voting Stakeholder is not a natural person, nominating himself or herself provided that the nomination is submitted to the Board not less than ten (10) days before the election date together with the nominee's consent and credentials, and the Board shall circulate such information in the same manner the Board is circulating the information of the recommended nominees made by the Nominations Committee; and
 - b) any Voting Stakeholder, or an individual on behalf of a Voting Stakeholder if the Voting Stakeholder is not a natural person, nominating a Voting Stakeholder provided that the nominee's consent and credentials have been obtained by the nominator and provided that the nomination, consent, and credentials of the nominee are submitted to the Board not less than ten (10) days before the election date, and the Board shall circulate such information in the same manner the Board is circulating the information of the recommended nominees made by the Nominations Committee.
52. The Elected Directors must retire from office at the annual general meeting coinciding with the expiration of their term when their successors are elected.
53. An election may be by acclamation, otherwise it must be by ballot, and the ballot may be in any format, including electronic, that the Board decides in its discretion.
54. If a successor is not elected, the person previously elected or appointed continues to hold office.
55. The directors may at any time and from time to time appoint a Voting Stakeholder as a director to fill a vacancy in the directors.

56. If an Elected Director resigns his or her office or otherwise ceases to hold office such that the position would be open for six (6) months or more until the next election for same, that Elected Director's position shall be filled by the person who received the next most votes for that position at the last general meeting. If there was no such person or that person declines, then the remaining Elected Directors must appoint a Voting Stakeholder to take place of the former Elected Director.
57. If an Elected Director resigns his or her office or otherwise ceases to hold office leaving the position open for less than six (6) months until the next election for same, that Elected Director's position shall remain vacant until the next election.
58. An act or proceeding of the directors is not invalid merely because there are less than the prescribed number of directors in office.
59. The Voting Stakeholders may, by special resolution, remove a director, before the expiration of his or her term of office, and may elect a successor to complete the term of office.
60. A director must not be remunerated for being or acting as a director but a director must be reimbursed for all expenses necessarily and reasonably incurred by the director while engaged in the affairs of the society.
61. Every director and officer shall:
 - a) act honestly and in good faith and in the best interests of the society, without regard for any specific person, endeavour, or industry, including the industry to which such director or officer belongs or represents;
 - b) exercise care, diligence and skill of a reasonably prudent person;
 - c) not communicate confidential information to anyone not entitled to receive the same;
 - d) not use information, confidential or otherwise, that is gained in the execution of his or her office and is not available to the Stakeholders of the society generally, to further or seek to further the director or officer's private pecuniary or other interest;
 - e) not use the position as director or officer to secure special privileges, favours, or exemptions for himself or herself personally or any other person;
 - f) not be placed in a situation where the director or officer may be under obligation to someone who has business dealings with the society and who would benefit from a special consideration or treatment;
 - g) not use the position as director or officer to influence a decision to be made by another person to further the director or officer's private pecuniary or other interest;

- h) avoid any situations that could cause any person to believe that the director or officer may have brought bias or partiality to a question before the society and committee or board of the society.
62. For the purposes of these bylaws, "pecuniary interest" shall mean an interest consisting of money, measure in money or related to money (including a financial gain or an avoidance of a financial loss) and shall include the following:
- a) "direct pecuniary interest", which shall be considered to exist where the pecuniary interest is directly under the control of the director or officer;
 - b) an "indirect pecuniary interest", which shall be considered to exist where the director or officer:
 - i) is a shareholder in, or a director or senior officer of, a corporation or agency that has a pecuniary interest in the matter;
 - ii) is a member of a body that has a pecuniary interest in the matter;
 - iii) is a partner or agent of a person who has a pecuniary interest in the matter;
or
 - iv) is in the employment of a person or body that has a pecuniary interest in the matter;
 - c) a "deemed pecuniary interest", which shall be considered to exist where the pecuniary interest of
 - i) The director's close relatives;
 - ii) Other boards on which the director serves;
 - iii) Community organization in which the director participates; or
 - iv) The director's employer;
 - v) is known to the director.
63. The Board shall hire, from time to time as it deems necessary, a salaried chief executive officer who will be called the President and CEO. The CEO shall deal with all day to day operations and management, employment issues, including salary, employment reviews, and termination, taking into consideration the recommendations of the Board or any relevant committee. The CEO shall attend all Board meeting unless otherwise directed by the Board and shall be held to the levels of conduct established in section 45.

PART 6 – PROCEEDINGS OF DIRECTORS

64. The directors may meet at the places they think fit to conduct business, adjourn and otherwise regulate their meetings and proceedings, as they see fit.
65. The directors may from time to time set the quorum necessary to conduct business, and unless so set the quorum is a majority of the directors then in office.
66. The Chairperson of the Board of Directors is the chair of all meetings of the directors, but if at a meeting the Chairperson is not present within Thirty (30) Minutes after the time appointed for holding the meeting, the vice-Chairperson must act as chair, but if neither is present the directors present may choose one of their number to be the chair at that meeting.
67. A director may at any time, and the secretary, on the request of a director, must, convene a meeting of the directors.
68. A director may not attend more than half of the Board meetings in a calendar year by telephone or other means.
69. The directors may delegate any, but not all, of their powers to committees. Accordingly, the Board may, from time to time establish committees as it sees fit.
70. A committee shall consist of at least one director and such additional Stakeholders, or their authorized representative, or persons, as the Board appoints in its discretion, provided that a majority of the Stakeholders of such a committee shall be Voting Stakeholders.
71. The Board may, in its sole discretion, remove any person from a committee.
72. All committees so formed in the exercise of the powers so delegated must conform to any rules imposed on it by the directors from time to time, and must report every act or thing done in exercise of those powers to the earliest meeting of the directors held after the act or thing has been done. Minutes of each and every committee meeting must be taken and copies provided to the Board Prior to the next scheduled Board meeting.
73. Each committee may, at its own discretion, create and delegate responsibilities to such subcommittees as it sees fit. Unless otherwise authorized by the Board in writing, such subcommittees shall consist of at least one director and such additional Stakeholders, or their authorized representative, as the committee appoints in its discretion. All subcommittees in the exercise of the powers so delegated must conform to any rules imposed on it by the directors or establishing committee from time to time, and must report every act or thing done in exercise of those powers to the earliest meeting of the establishing committee held after the act or thing has been done, and to the Board if requested. Minutes of each and every committee meeting must be taken and copies provided to the Board prior the next scheduled Board meeting.

74. A committee must elect a chair of its meetings, but if no chair is elected, or if at a meeting the chair is not present within Thirty (30) Minutes *after* the time appointed for holding the meeting, the directors present who are members of the committee must choose one of their number to be the chair of the meeting.
75. The members of a committee may meet and adjourn as they think proper.
76. For a first meeting of directors held immediately following the appointment or election of a director or directors at an annual or other general meeting of members, or for a meeting of the directors at which a director is appointed to fill a vacancy in the directors, it is not necessary to give notice of the meeting to the newly elected or appointed director or directors for the meeting to be constituted, if a quorum of the directors is present.
77. A director who may be absent temporarily from British Columbia may send or deliver to the address of the society a waiver of notice, which may be by letter, email, facsimile, or telegram, of any meeting of the directors and may at any time withdraw the waiver, and until the waiver is withdrawn:
 - a) a notice of meeting of directors is not required to be sent to that director; and
 - b) any and all meetings of the directors of the society, notice of which has not been given to that director, if a quorum of the directors is present, are valid and effective.
78. Questions arising at a meeting of the directors and committee of directors must be decided by a majority of votes.
79. In the case of a tie vote, the chair does not have a second or casting vote.
80. A resolution proposed at a meeting of directors or committee of directors need not be seconded, and the chair of a meeting may move or propose a resolution.
81. In the event of a vote by the directors relating to the approval of an annual marketing plan or budget, the following majorities must be obtained for the vote to succeed:
 - a) a simple majority of the Elected Directors who are accommodation representatives pursuant to bylaw 45 who are present; and
 - b) a simple majority of the directors present at the meeting.

This voting process shall be required for any vote by the directors if an Elected Director who is an accommodation representative pursuant to bylaw 45 requests that this method of voting be used prior to the voting taking place.

82. A resolution in writing, signed by all the directors and placed with the minutes of the directors, is as valid and effective as if regularly passed at a meeting of directors.

PART 7 – DUTIES OF OFFICERS

83. At the first meeting of the Board following each annual general meeting, the Board shall elect from among the directors a Chairperson, vice-Chairperson, secretary and treasurer. Each officer shall serve in the respective position for a term of one (1) year. The Chairperson may only be elected Chairperson for a maximum of two (2) consecutive one (1) year terms.
84. The Chairperson presides at all meetings of the society and of the directors.
85. The Chairperson must supervise the other officers in the execution of their duties.
86. The vice-Chairperson must carry out the duties of the Chairperson during the Chairperson's absence.
87. The secretary is responsible for:
- a) conduct of the correspondence of the Society,
 - b) issuing notices of meetings of the society and directors;
 - c) keeping minutes of all meetings of the society and directors;
 - d) having custody of all records and documents of the society except those required to be kept by the treasurer;
 - e) maintaining custody of the common seal of the society; and
 - f) maintaining the register of members.
88. The treasurer is responsible for:
- a) keeping the financial records, including books of account, necessary to comply with the *Society Act*; and
 - b) rendering financial statements to the directors, members and others when required.
89. The offices of secretary and treasurer may be held by one person who is to be known as the secretary/treasurer.
90. If a secretary/treasurer holds office, the total number of directors must not be less than Five (5) or the greater number that may have been determined under these bylaws.
91. In the absence of the secretary from a meeting, the directors must appoint another person to act as secretary at the meeting.

PART 8 - SEAL

92. The directors may provide a common seal for the society and may destroy a seal and substitute a new seal in its place.

PART 9 - BORROWING

93. In order to carry out the purposes of the society the directors may, on behalf of and in the name of the society, raise or secure the payment or repayment of money in the manner they decide, in particular but without limiting that power, by the issue of debentures.
94. A debenture must not be issued without the authorization of a special resolution.
95. The Voting Stakeholders may, by special resolution, restrict the borrowing powers of the directors, but a restriction imposed expires at the next annual general meeting.

PART 10 – AUDITOR

96. This Part applies only if the society is required or has resolved to have an auditor.
97. The first auditor must be appointed by the directors who must also fill all vacancies occurring in the office of auditor.
98. At each annual general meeting the society must appoint an auditor to hold office until the auditor is re-elected or a successor is elected at the next annual general meeting.
99. An auditor may be removed by ordinary resolution.
100. An auditor must be promptly informed in writing of the auditor's appointment or removal.
101. A director or employee of the society must not be its auditor.
102. The auditor may attend general meetings.
103. A notice may be given to a Stakeholder, either personally, by email, or by mail to the Stakeholder at the Stakeholder's registered address.
104. A notice sent by mail is deemed to have been given on the second day following the day on which the notice is posted, and in proving that notice has been given, it is sufficient to prove the notice was properly addressed and put in a Canadian post office receptacle. A notice sent by email or facsimile is deemed to have been given on the day the notice is sent.
105. Notice of a general meeting must be given to:
- a) every Stakeholder shown on the register of members on the day notice is given;
and
 - b) the auditor, if Part 10 applies.

106. No other person is entitled to receive a notice of a general meeting.
107. On becoming a Stakeholder, each Stakeholder is entitled to, and the society must give the stakeholder without charge, a copy of the constitution and bylaws of the society, or advise the Stakeholder where a copy of the constitution and bylaws are available electronically without charge to the Stakeholder.
108. These bylaws must not be altered or added to except by special resolution.