



# Articles of Continuance and By-laws

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## ARTICLES OF CONTINUANCE AND BY-LAWS

### By-Law No. 1

A By-Law relating generally to the conduct of the affairs of The Perth and District Community Foundation (the "Corporation")

BE IT ENACTED as a by-law of the Corporation as follows:

#### 1. Existing By-Laws

1.1 This By-Law shall be referred to as By-Law No. 1 of The Perth and District Community Foundation and revokes and replaces, in their entirety, By-Laws Nos. 1, 2, 3, 4, and 5 of the Corporation.

#### 2. Definition

2.1 In this By-Law (No. 1) and all other by-laws of the Corporation, unless the context otherwise requires:

(a) "Act" means the Canada Not-For-Profit Corporations Act S.C. 2009, c.23 including the Regulations made pursuant to the Act, and any statute or regulations that may be substituted, as amended from time to time;

(b) "articles" means the original or restated articles of incorporation or articles of amendment, amalgamation, continuance, reorganization, arrangement or revival of the Corporation;

(c) "Board" means the board of directors of the Corporation and "Director" means a member of the board;

(d) "By-Law" means this by-law and any other by-law of the Corporation as amended and which are, from time to time, in force and effect;

(e) "meeting of members" includes an annual meeting of members or a special meeting of members; "special meeting of members" includes a meeting of any class or classes of members and a special meeting of all members entitled to vote at an annual meeting of members;

(f) "ordinary resolution" means a resolution passed by a majority of not less than fifty percent (50%) plus one (1) of the votes cast on that resolution;

(g) "Regulations" means the regulations made under the Act, as amended, restated or in effect from time to time; and

(h) "special resolution" means a resolution passed by a majority of not less than two-thirds (2/3) of the votes cast on that resolution.

### **3. Interpretation**

3.1 In the interpretation of this by-law, words in the singular include the plural and vice-versa, words in one gender include all genders, and "person" includes an individual, body corporate, partnership, trust and unincorporated organization. Other than as specified above, words and expressions defined in the Act have the same meanings when used in these by-laws.

## **Administrative Matters**

### **4. Execution of Documents**

4.1 Deeds, transfers, assignments, contracts, obligations and other instruments in writing requiring execution by the Corporation may be signed by any two (2) of its officers. In addition, the Board may from time to time, by ordinary resolution, direct the manner in which and the person or persons by whom a particular document or type of document shall be executed. Any person authorized to sign any document may affix the corporate seal (if any) of the Corporation to the document. Any signing officer may certify a copy of any instrument, resolution, by-law or other document of the Corporation to be a true copy thereof.

### **5. Financial Year**

5.1 The financial year end of the Corporation shall be July 31 in each year.

### **6. Banking Arrangements**

6.1 The banking business of the Corporation shall be transacted at such bank, trust company or other firm or corporation carrying on a banking business in Canada or elsewhere as the Board may, by ordinary resolution designate, appoint or authorize from time to time. The banking business or any part of it shall be transacted by an officer or officers of the Corporation and/or other persons as the Board may by ordinary resolution from time to time designate, direct or authorize.

### **7. Borrowing Powers**

7.1 The Directors may from time to time:

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

### **8. Annual Financial Statements**

8.1 The Corporation may, instead of sending copies of the annual financial statements and other documents referred to in subsection 172(1) (Annual Financial Statements) of the Act to the members, publish a notice to its members stating that the annual financial statements and documents provided in subsection 172(1) are available at the registered office of the

Corporation and any member may, on request, obtain a copy free of charge at the registered office or by prepaid mail.

## **Membership**

### **9. Membership Conditions**

9.1 Subject to the articles, there shall be one class of members in the Corporation. Membership in the Corporation shall be available only to persons while serving as directors who have been accepted into membership in the Corporation by resolution of the board or in such other manner as may be determined by the board. Each member shall be entitled to receive notice of, attend and vote at all meetings of the members of the Corporation. There shall be no dues payable by members for membership in the corporation.

9.2 Pursuant to subsection 197(1) (Fundamental Change) of the Act, a special resolution of the members is required to make any amendments to this section of the by-laws if those amendments affect membership rights and/or conditions described in subsections 197(1)(e), (h), (l) or (m) of the Act.

### **10. Membership Transferability**

10.1 A membership may only be transferred to the Corporation. Pursuant to Section 197(1) (Fundamental Change) of the Act, a special resolution of the members is required to make any amendment to add, change or delete this section of the by-laws.

### **11. Annual General Meeting**

11.1 The Directors shall call an annual meeting of members each year to be held in each year not later than fifteen (15) months after the last preceding annual meeting of members but not later than six (6) months after the end of the Corporation's preceding financial year.

11.2 The following persons shall be entitled to notice of and to attend the annual meeting of members:

- (a) Directors of the Corporation;
- (b) members of the Corporation;
- (c) public accountant of the Corporation; and
- (d) such other invitees to the annual meeting of members as determined by the Board of Directors of the Corporation.

### **12. Notice of Members Meeting**

12.1 Notice of the time and place of a meeting of members shall be given to each member entitled to vote at the meeting as follows:

- (a) by telephonic, electronic or other communication facility to each member entitled to vote at the meeting not less than twenty-one (21) to thirty-five (35) days before the day

on which the meeting is to be held; or

(b) by mail, courier or personal delivery not less than twenty-one (21) days to sixty (60) days before the day on which the meeting is held.

12.2 Pursuant to subsection 197(1) (Fundamental Change) of the Act, a special resolution of the members is required to make any amendment to the by-laws of the Corporation to change the manner of giving notice to members entitled to vote at a meeting of members.

### **13. Members Calling a Members' Meeting**

13.1 The Board shall call a special meeting of members in accordance with Section 167 of the Act, on written requisition of members carrying not less than twenty percent (20%) of the voting rights. The Board or president has the power to call a special meeting of members at any time.

### **14. Absentee Voting at Members' Meetings**

14.1 Pursuant to Section 171(1) of the Act, a member entitled to vote at a meeting of members may vote by proxy by appointing in writing a proxy holder, and one or more alternate proxy holders, who are not required to be members, to attend and act at the meeting in the manner and to the extent authorized by the proxy and with the authority conferred by it subject to the following requirements:

(a) a proxy is valid only at the meeting in respect of which it is given or at a continuation of that meeting after an adjournment;

(b) a member may revoke a proxy by depositing an instrument or act in writing executed:

(i) at the registered office of the corporation no later than the last business day preceding the day of the meeting, or the day of the continuation of that meeting after an adjournment of that meeting, at which the proxy is to be used, or

(ii) with the chairperson of the meeting on the day of the meeting or the day of the continuation of that meeting after an adjournment of that meeting;

(c) a proxy holder or an alternate proxy holder has the same rights as the member by whom they were appointed, including the right to speak at a meeting of members in respect of any matter, to vote by way of ballot at the meeting, to demand a ballot at the meeting and, except where a proxy holder or an alternate proxy holder has conflicting instructions from more than one member, to vote at the meeting by way of a show of hands;

(d) if a form of proxy is created by a person other than the member, the form of proxy shall

(i) indicate, in bold-face type,

A. the meeting at which it is to be used,

B. that the member may appoint a proxy holder, other than a person designated in the form of proxy, to attend and act on their behalf at the meeting, and

C. instructions on the manner in which the member may appoint the proxy holder,

(ii) contain a designated blank space for the date of the signature,

(iii) provide a means for the member to designate some other person as proxy holder, if the form of proxy designates a person as proxy holder,

(iv) provide a means for the member to specify that the membership registered in their name is to be voted for or against each matter, or group of related matters, identified in the notice of meeting, other than the appointment of a public accountant and the election of directors,

(v) provide a means for the member to specify that the membership registered in their name is to be voted or withheld from voting in respect of the appointment of a public accountant or the election of directors, and

(vi) state that the membership represented by the proxy is to be voted or withheld from voting, in accordance with the instructions of the member, on any ballot that may be called for and that, if the member specifies a choice under subparagraph (iv) or (v) with respect to any matter to be acted on, the membership is to be voted accordingly;

(e) a form of proxy may include a statement that, when the proxy is signed, the member confers authority with respect to matters for which a choice is not provided in accordance with subparagraph (d)(iv) only if the form of proxy states, in bold-face type, how the proxy holder is to vote the membership in respect of each matter or group of related matters;

(f) if a form of proxy is sent in electronic form, the requirements that certain information be set out in bold-face type are satisfied if the information in question is set out in some other manner so as to draw the addressee's attention to the information; and

(g) a form of proxy that, if signed, has the effect of conferring a discretionary authority in respect of amendments to matters identified in the notice of meeting or other matters that may properly come before the meeting must contain a specific statement to that effect.

Pursuant to Section 197(1) of the Act, a special resolution of the members is required to make any amendment to the articles or by-laws of the Corporation to change this method of voting

by members not in attendance at a meeting of members.

## **15. Termination of Membership**

15.1 A membership in the Corporation is terminated when:

- (a) the member dies;
- (b) at a meeting of the Board, a special resolution is passed to terminate the membership of a member in accordance with Section 15.2 below;
- (c) the member resigns by delivering a written resignation to the President such resignation to take effect on the date the notice is given or on such later date as may be specified in the notice;
- (d) the member's term as a Director expires or the member ceases to qualify to serve as a Director;
- (e) the member fails to attend two (2) successive meetings of the Board, unless the member has been specifically excused by ordinary resolution of the Directors; or
- (f) the Corporation is liquidated or dissolved under the Act.

15.2 The Board shall have the authority to terminate the membership of any members of the Corporation for any one or more of the following grounds:

- (a) violating any provision of the articles, by-laws or written policies of the Corporation;
- (b) carrying out any conduct which may be detrimental to the Corporation as determined by the Board in its sole and absolute discretion; or
- (c) for any other reason that the Board in its sole and absolute discretion considers to be reasonable, having regard to the purpose of the Corporation.

15.3 In the event that the Board determines that a membership should be terminated, then the President, or such other officer as may be designated by the Board, shall provide twenty (20) days' notice of termination to the member and shall provide reasons for the proposed termination. The member receiving the notice may make written submissions to the President, or such other officer as may be designated by the Board, in response to the notice received within such twenty (20) day period. In the event that no written submissions are received by the President, or such other officer as may be designated by the Board, then the President, or such other officer as may be designated by the Board, may proceed to notify the members that the membership of such member is terminated. If written submissions are received in accordance with this Section, then the Board will consider such submissions in arriving at a final decision and shall notify the member concerning such final decision within a further twenty (20) days from the date of receipt of the submissions. The Board's decision shall be final and binding on the member, without any further right of appeal.

## **16. Effect of Termination of Membership**

16.1 Subject to the articles, upon the termination of a membership in the Corporation:

(a) the rights of the member, including any rights in the property of the Corporation, automatically cease to exist; and

(b) the member ceases to hold office as a Director and officer.

## **17. Proposals Nominating Directors at Annual Members' Meetings**

17.1 Any member may submit to the Corporation notice of any matter that the member proposes to raise at a meeting of the members. A member who submits such a proposal in compliance with the provisions set out in the Act and the Regulations shall be entitled to discuss the matters set out in the proposal at the meeting of the members.

17.2 A proposal submitted to the Corporation for the nomination for election of a Director(s) shall only be valid if the proposal is signed by not less than one (1) member of the Corporation entitled to vote at a meeting of members.

17.3 The member or members who submit a proposal shall pay the cost of including the proposal and any statement in the notice of meeting at which the proposal is to be presented unless otherwise provided by ordinary resolution of the members present at the meeting.

## **18. Place of Members' Meeting**

18.1 Subject to compliance with section 159 (Place of Members' Meetings) of the Act, meetings of the members may be held at any place within Canada determined by the Board or, if all of the members entitled to vote at such meeting so agree, outside Canada.

## **19. Persons Entitled to be Present at Members' Meetings**

19.1 The only persons entitled to be present at a meeting of members shall be those entitled to vote at the meeting, the directors and the public accountant of the Corporation and such other persons who are entitled or required under any provision of the Act, 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 chair of the meeting or by resolution of the members.

## **20. Chair of Members' Meetings**

20.1 In the event that the president of the Board and the vice-president of the board are absent, the members who are present and entitled to vote at the meeting shall choose one of their number to chair the meeting.

## **21. Quorum at Members' Meetings**

21.1 A quorum for the transaction of business at any meeting of the members (unless a greater number of members are required to be present by the Act) shall be a majority of the members (or proxy holders) entitled to vote at the meeting. If a quorum is present at the

opening of a meeting of members, the members present may proceed with the business of the meeting even if a quorum is not present throughout the meeting.

## **22. Votes to Govern at Members' Meetings**

22.1 At any meeting of members every question shall, unless otherwise provided by the articles or by-laws or by the Act, be determined by a majority of the votes cast on the questions. In case of an equality of votes either on a show of hands or on a ballot or on the results of electronic voting, the chair of the meeting in addition to an original vote shall have a second or casting vote.

## **23. Participation by Electronic Means at Members' and Directors' Meetings**

23.1 Any person entitled to attend a meeting of members or directors may participate in the meeting by means of a telephonic, electronic, or other communication facility that permits all participants to communicate adequately with each other during the meeting, if the corporation makes such means available.

23.2 If the directors or members of the corporation call a meeting of the members under the Act, the directors or members, as the case may be, may determine that the meeting be held entirely by a telephonic, an electronic, or other communication facility that permits all participants to communicate adequately with each other during the meeting.

23.3 A person participating in a meeting of directors or members as permitted in this clause is deemed to be present at the meeting.

23.4 Any person participating in a meeting of directors or members who is entitled to vote at that meeting may vote in accordance with the Act by means of any telephonic, electronic, or other communication facility that the Corporation has made available for that purpose.

## **Directors**

### **24. Qualifications**

24.1 The following individuals shall be disqualified from being a Director of the Corporation:

- (a) an individual who is less than eighteen (18) years of age;
- (b) an individual who has been declared incapable by a court in Canada or in another country;
- (c) an individual found to be bankrupt; or
- (d) an individual who is not a member of the Corporation or whose membership has been terminated in accordance with the provisions of this by-law.

### **25. Number of Directors**

25.1 The Board shall consist of a minimum number of six (6) Directors and a maximum number of twelve (12) Directors. The Board shall be composed of the fixed number of Directors

as determined from time to time by the members by ordinary resolution or, if the ordinary resolution empowers the Directors to determine the number, by resolution of the board. The minimum number of Directors may not be fewer than three (3), at least two of whom are not officers or employees of the Corporation.

25.2 The Board shall annually appoint a Nominating Committee which shall be governed by the Terms of Reference approved by the Board from time to time. Not less than sixty (60) days in advance of the meeting of the members at which Directors are to be elected, the chair of the Nominating Committee shall present to the Board the names of those persons it recommends for election as Directors. Those persons recommended by the Nominating Committee for election as Directors who, if they are then approved by the Board, shall be the nominees for election to the Board. This list of nominees shall be submitted to the members with the notice of the annual meeting.

25.3 Any person who is not recommended by the Nominating Committee for election as a Director and who is otherwise qualified to be elected as a Director, may seek election as a Director provided the Corporation receives a proposal from one (1) existing member of the Corporation for such person's nomination as a Director in accordance with Section 17.2 above at least thirty (30) days prior to the meeting of the members at which Directors are to be elected.

## **26. Term of Office of Directors**

26.1 The Directors shall be elected by the Members at the annual general meeting of the Corporation (the "AGM"). The term of office of the Directors shall be for two (2) years starting on the date of the AGM at which they are elected. A Director may be elected to hold one (1) additional consecutive two (2) year term. A former director is eligible for re-election following a two (2) year absence from office as Director. If a Director is not elected at an AGM to replace an incumbent Director, the incumbent Director shall continue in office until a replacement is elected.

26.2 A Director's term of office may be extended by up to two (2) additional one (1) year terms in excess of the four (4) consecutive years if in each of those one (1) year terms, and so long as, the Director serves as an officer of the Corporation.

26.3 A Director ceases to hold office when the Director:

(a) dies;

(b) ceases to be a member;

(c) the Director resigns by delivering a written resignation to the President such resignation to take effect on the date the notice is given or on such later date as may be specified in the notice;

(d) fails to attend two (2) successive meetings of the Board, unless the Director has been

specifically excused by ordinary resolution of the Board; or

(e) is disqualified at any point during the Director's term of office by reason of any one (1) of the reasons set out in Section 25.1 above.

## **27. Calling of Meetings of Board of Directors**

27.1 Meetings of the board shall be called by the President of the Board, the Vice-President of the Board or by any other two (2) Officers of the Board to be held at such time and in such place as the person(s) calling the meeting shall determine.

## **28. Notice of Meeting of Board of Directors**

28.1 Notice of the time and place for the holding of a meeting of the board shall be given in the manner provided in the section on giving notice of meeting of Directors of this by-law to every Director of the Corporation not less than fourteen (14) days before the time when the meeting is to be held. Notice of a meeting shall not be necessary if all of the Directors are present, and none objects to the holding of the meeting, or if those absent have waived notice of or have otherwise signified their consent to the holding of such meeting. Notice of an adjourned meeting is not required if the time and place of the adjourned meeting is announced at the original meeting. Unless the by-law otherwise provides, no notice of meeting need specify the purpose or the business to be transacted at the meeting except that a notice of meeting of directors shall specify any matter referred to in subsection 138(2) (Limits on Authority) of the Act that is to be dealt with at the meeting.

## **29. Regular Meetings of the Board of Directors**

29.1 The Board may appoint a day or days in any month or months for regular meetings of the Board at a place and hour to be named. 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 forthwith after being passed, but no other notice shall be required for any such regular meeting except if subsection 136(3) (Notice of Meeting) of the Act requires the purpose thereof or the business to be transacted to be specified in the notice.

## **30. Votes to Govern at Meetings of the Board of Directors**

30.1 At all meetings of the Board, every question shall be decided by a majority of the votes cast on the question. In case of an equality of votes, the chair of the meeting in addition to an original vote shall have a second or casting vote.

## **31. Committees of the Board of Directors**

31.1 The Board may from time to time appoint any committee or other advisory body, as it deems necessary or appropriate for such purposes and, subject to the Act, with such powers as the Board shall see fit. Any such committee may formulate its own rules of procedure, subject to such regulations or directions as the Board may from time to time make. Any committee member may be removed by ordinary resolution of the Board.

## Officers of Corporation

### 32. Appointment of Officers

32.1 The board may designate the offices of the Corporation, appoint officers on an annual or more frequent basis, specify their duties and, subject to the Act, delegate to such officers the power to manage the affairs of the Corporation. A Director may be appointed to any office of the Corporation. An officer may, but need not be, a Director unless these by-laws otherwise provide.

### 33. Description of Offices

33.1 Unless otherwise specified by the Board (which may, subject to the Act modify, restrict or supplement such duties and powers), the offices of the Corporation, if designated and if officers are appointed, shall have the following duties and powers associated with their positions:

(a) President – The President of the Board shall be a director. The President of the board, shall, when present, preside at all meetings of the Board of directors and of the members. The president shall, subject to the authority of the Board, have general supervision of the affairs of the Corporation. The president shall have such other duties and powers as the board may specify.

(b) Vice-President – The vice-president of the Board shall be a director. If the president of the board is absent or is unable or refuses to act, the vice-president of the board shall, when present, preside at all meetings of the Board and of the members. The vice-president shall have such other duties and powers as the board may specify.

(c) Secretary – If appointed, the secretary shall attend and be the secretary of all meetings of the board, members and committees of the board. The secretary shall enter or cause to be entered in the Corporation's minute book, minutes of all proceedings at such meetings; the secretary shall give, or cause to be given, as and when instructed, notices to members, directors, the public accountant and members of committees; the secretary shall be the custodian of all books, papers, records, documents and other instruments belonging to the Corporation unless some other officer or agent has been appointed for any of these purposes.

(d) Treasurer – If appointed, the treasurer shall be the Chair of the Corporation's Finance Committee and shall have such powers and duties as Terms of Reference for the Finance Committee and/or the Board may specify from time to time.

33.2 The powers and duties of all other officers of the Corporation shall be such as the terms of their engagement call for or the board or president requires of them. The Board may from time to time and subject to the Act, vary, add to or limit the powers and duties of any officer.

### 34. Vacancy in Office

34.1 In the absence of a written agreement to the contrary, the Board may remove, whether for cause or without cause, any officer of the Corporation. Unless so removed, an officer shall hold office until the earlier of:

- (a) the officer's successor being appointed,
- (b) the officer's resignation,
- (c) such officer ceasing to be a director (if a necessary qualification of appointment) or
- (d) such officer's death.

34.2 If the office of any officer of the Corporation shall be or become vacant, the directors may, by ordinary resolution, appoint a person to fill such vacancy.

## Notices

### 35. Method of Giving Any Notice

35.1 Any notice (which term includes any communication or document), other than notice of a meeting of members or a meeting of the board of directors, to be given (which term includes sent, delivered or served) pursuant to the Act, the articles, the by-laws or otherwise to a member, director, officer or member of a committee of the board or to the public accountant shall be sufficiently given:

- (a) if delivered personally to the person to whom it is to be given or if delivered to such person's address as shown in the records of the Corporation or in the case of notice to a director to the latest address as shown in the last notice that was sent by the Corporation in accordance with section 128 (Notice of directors) or 134 (Notice of change of directors);
- (b) if mailed to such person at such person's recorded address by prepaid ordinary or air mail;
- (c) if sent to such person by telephonic, electronic or other communication facility at such person's recorded address for that purpose; or
- (d) if provided in the form of an electronic document in accordance with Part 17 of the Act.

A notice so delivered shall be deemed to have been given when it is delivered personally or to the recorded address as aforesaid; a notice so mailed shall be deemed to have been given when deposited in a post office or public letter box; and a notice so sent by any means of transmitted or recorded communication shall be deemed to have been given when dispatched or delivered to the appropriate communication company or agency or its representative for dispatch. The secretary may change or cause to be changed the recorded address of any member, director, officer, public accountant or member of a committee of the board in accordance with any information believed by the secretary to be reliable. The declaration by the secretary that

notice has been given pursuant to this by-law shall be sufficient and conclusive evidence of the giving of such notice. The signature of any director or officer of the Corporation to any notice or other document to be given by the Corporation may be written, stamped, type-written or printed or partly written, stamped, type-written or printed.

## **General Provisions**

### **36. Invalidity of any Provisions of this By-law**

36.1 The invalidity or unenforceability of any provision of this by-law shall not affect the validity or enforceability of the remaining provisions of this by-law.

### **37. Omissions and Errors**

37.1 The accidental omission to give any notice to any member, Director, officer, member of a committee of the Board or public accountant, or the non-receipt of any notice by any such person where the Corporation has provided notice in accordance with the by-laws or any error in any notice not affecting its substance shall not invalidate any action taken at any meeting to which the notice pertained or otherwise founded on such notice.

### **38. By-laws and Effective Date**

38.1 Subject to the articles, the board of directors may, by resolution, make, amend or repeal any by-laws that regulate the activities or affairs of the Corporation. Any such by-law, amendment or repeal shall be effective from the date of the resolution of directors until the next meeting of members where it may be confirmed, rejected or amended by the members by ordinary resolution. If the by-law, amendment or repeal is confirmed or confirmed as amended by the members it remains effective in the form in which it was confirmed. The by-law, amendment or repeal ceases to have effect if it is not submitted to the members at the next meeting of members or if it is rejected by the members at the meeting.

38.2 This section does not apply to a by-law that requires a special resolution of the members according to subsection 197(1) (fundamental change) of the Act because such by-law amendments or repeals are only effective when confirmed by members.

Certified to be By-Law No. 1 of the Corporation, as enacted by the members of the Corporation by special resolution on the 27th day of January, 2022.

Dated as of the 12th day of February, 2022

Original Signed by Ron Heesen, President