

## **BY-LAW NUMBER 01-2018**

A by-law relating generally to the transaction of business relating to the **VISUAL ARTS CENTRE OF CLARINGTON** (*previously known as The Visual Arts Centre of Newcastle*).

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BE IT ENACTED as a by-law of the VISUAL ARTS CENTRE OF CLARINGTON as follows:

### **REPEAL OF BYLAWS**

All bylaws of the corporation heretofore enacted are hereby repealed.

### **HEAD OFFICE**

1. The head office of the corporation shall be in the Municipality of Clarington in the Region of Durham in the Province of Ontario, and at such place therein as the Directors may from time to time determine.

### **SEAL**

2. The corporate seal, an impression whereof is stamped in the margin hereof, shall be the corporate seal of the corporation.

### **PURPOSES**

3. The Visual Arts Centre of Clarington's mandate is to promote the creation, display and appreciation of the visual arts in the Greater Toronto Area with special emphasis on Clarington and the Durham Region.

### **BOARD OF DIRECTORS**

4. The affairs of the corporation shall be controlled and directed by a Board of up to twelve elected Directors and a representative appointed by the Municipality of Clarington, each of whom at the time of their election or within 10 days thereafter and throughout their term of office shall be a member of the corporation. A qualified Director is defined as an individual who is at least 18 years of age, not be an undischarged bankrupt nor a mentally incompetent person, and be a resident of Ontario. A candidate for the board must not be related by either birth or marriage to any existing board member or employee. A qualified board member may not be an employee of the corporation, and may not have conflicting relationships with other competing organizations. The Board of Directors reserves the right to determine what is a competing organization to the Visual Arts Centre of Clarington. Lastly, a qualified Director must pass board review or examination and be formally voted onto the board. Each Director shall

be elected for a term of three (3) years, at the annual meeting of the corporation and shall hold office until his or her successor is elected or until such director resigns or is removed from their position as a director (refer to section 13 for more details). A Director whose term has expired shall be eligible for re-election for one additional term of three (3) years if otherwise qualified, after which additional term, the Director must cease to be a Director for at least one (1) year before being eligible for re-election. A Director who is absent without leave from three (3) regular board meetings shall be deemed to have tendered his or her resignation as a Director. The Board of Directors may accept the resignation and appoint any member of the corporation in his or her stead to serve as a Director until the next annual members meeting. (See section 6 with respect to the treatment of board vacancies)

5. The Board of Directors may at any time appoint an honorary Advisory Board at their discretion to advise the Board of Directors.

### **VACANCIES, BOARD OF DIRECTORS**

6. Vacancies on the Board of Directors, however, caused, may so long as a quorum of Directors remain in office, be filled by the Directors from among the qualified members of the corporation, if they shall see fit to do so, otherwise such vacancy shall be filled at the next annual meeting of the members at which the Directors for the ensuing year are elected, but if there is not a quorum of Directors, the remaining Directors shall forthwith call a meeting of the members to fill the vacancy.

### **QUORUM AND MEETINGS, BOARD OF DIRECTORS**

7a. A quorum for the transaction of business at meetings of the Board shall be a simple majority of (50% plus 1) of the elected and current Directors of the board, except as otherwise required by law.

7b. The Board of Directors may hold its meetings at such place or places as it may from time to time determine. No formal notice of any such meeting shall be necessary if all the Directors are present, or if those absent have signified their consent to the meeting being held in their absence. Directors' meetings may be formally called by the President or Vice-President or by the Secretary on the direction in writing by two Directors, or by the Secretary on the direction of the President or Vice-President.

7c. Notice of such meeting shall either be delivered, telephoned or emailed to each Director not less than five days before the meeting is to take place. The statutory declaration of the Secretary or President that notice has been given pursuant to this by-law shall be sufficient and conclusive evidence of giving such notice.

7d. The Board may appoint a day or days in any month or months for regular meetings at an hour to be named and of such regular meeting, no notice need be sent.

7e. A Directors' meeting may also be held, without notice, immediately following the annual members' meeting of the corporation.

7f. The Directors may consider or transact any business either special or general at any meeting of the board.

7g. Board meetings and the annual members meeting are to be chaired by the President, in his or her absence the Vice-President or by another Officer or Board member decided by a majority decision of the Board.

### **ERRORS IN NOTICE, BOARD OF DIRECTORS**

8. No error or omission in giving such notice for a meeting of Directors shall invalidate such meeting or invalidate or make void any proceedings taken or had at such meeting and any Director may at any time waive notice of any such meeting and may ratify and approve of any or all proceedings taken or had thereat for the purpose of sending notice to any member, director, or officer for any meeting or otherwise the notice shall be sent to the contact information recorded on the books of the corporation. Subject to the requirement for a quorum (refer to Section 7)

### **VOTING, BOARD OF DIRECTORS**

9a. Questions/Motions arising at any meeting of board members shall be decided by a majority of votes. All votes at any such meeting shall be taken by written ballot and recorded if so demanded by any board member present, but if not demanded, a vote shall be taken in the usual way by assent or dissent.

9b. A declaration by the President that a resolution has been carried and an entry to that effect in the minutes shall be admissible in evidence as prima facie proof of the fact without proof of the number or proportion of the votes recorded in favour of or against such resolution.

9c. Outside of regular meetings of the Board, the President may, at their discretion, put forward a motion(s) for e-vote in accordance with the Rules for Voting by E-mail, and any other applicable provisions of this by-law.

## **POWERS**

10. The Directors of the corporation may administer the affairs of the corporation in all things and make or cause to be made for the corporation, in its name, any type of contract deemed reasonable and suitable and would be considered normal business of the corporation which the corporation may lawfully enter into and, save as hereinafter provided, generally, may exercise all such powers and do all such other acts and things as the corporation is by its charter or otherwise authorized to exercise and do.

## **REMUNERATION OF DIRECTORS**

11. The Directors shall receive no remuneration for acting as such.

## **CONFLICT OF INTEREST**

12. The members of the Board of Directors shall disclose personal or professional interests that are potentially at odds with the best interest of the corporation. Board members must withdraw from decisions that present a potential conflict or that would result in personal gain. (Such examples of personal gain would be: decisions that would beneficially impact a direct family member, friend, or associate of a board member and/or may have a direct/indirect impact on a business interest of such board member and for clarity wherein there may be a financial gain in any area for such director.) When a board member withdraws themselves from a decision that presents a potential conflict of interest this board members withdrawal from voting on a particular decision must be recorded in the meeting minutes. A Director who fails to disclose a potential conflict can be removed from the Board of Directors as per section 13.

## **REMOVAL OF BOARD MEMBERS**

13. Member(s) of the Board of Directors, including Officers, may be removed from the board if it is deemed by a two-thirds 2/3rds majority vote, at a Board of Directors meeting called for this purpose, that it is in the best interest of the corporation to terminate their participation on the board. (See Removal of Board Member Policy).

## **OFFICERS OF THE CORPORATION**

14. The Officers of the corporation shall include a President, Vice-President, Secretary and Treasurer each of whom will hold office for a one year term. The officers of the corporation will be elected by the Directors from among their number whenever a vacancy occurs. In extenuating circumstances, one person

may hold 2 of the executive board positions excluding that of the office of President. In default of election, the incumbent shall hold office until his or her successor is elected.

## **PROTECTION OF DIRECTORS AND OFFICERS**

15 Limitation of Liability: Except as otherwise provided in the *Corporations Act*, as amended from time to time, no Director or officer for the first time being of the Corporation shall be liable for the acts, receipts, neglects or defaults of any other Director or officer or employee or for joining in any receipt or act of conformity or for any loss, damage or expense happening to the Corporation through the insufficiency or deficiency of title to any property acquired by the Corporation for or on behalf of the Corporation or for the insufficiency or deficiency of any security in or upon which any of the monies of or belonging to the Corporation shall be invested or for any loss or damage arising from the bankruptcy, insolvency or tortious acts of any person with whom any of the monies, securities or effects of the Corporation shall be deposited or for any on his or her part or for any loss, damage or misfortune which may happen in the execution of the duties of her or his office or in relation thereto; provided that nothing herein shall relieve any director or officer from the duty to act in accordance with the *Corporations Act*, as amended from time to time and regulations or from liability for any breach thereof.

## **INSURANCE**

16. The Directors shall be responsible for ensuring that the following coverages are in place and premiums paid which are sufficient to protect the Corporation its employees, Officers and Directors. Such coverages are property and liability coverage and coverage for Directors and Officers liability; and other types of insurance as they may decide from time to time.

## **DUTIES OF THE PRESIDENT**

17. The President, the Secretary (refer to section 21), and the Governance committee (refer to section 44) is responsible for ensuring that the Board of Directors and its members are aware of and fulfill their governance responsibilities, comply with applicable laws and bylaws, conduct Board business effectively and efficiently and that the Board is accountable for their performance.

18. In order to fulfill these responsibilities, and subject to the corporation's bylaws it is the duty of the President to preside over meetings, propose policies and practices, sit on committees, and monitor the performance of Directors, Officers the Executive Director and other Senior Level positions of the Corporation. The President is also responsible for submitting various reports to the Board as required, to funders and to other “stakeholders”. The President shall propose the

creation of committees, appoint members to such committees and perform other duties as the need arises and/or as defined in the bylaws.

19. The President may delegate specific duties, as deemed appropriate to the Executive Director, Board members and/or committees. The President is responsible for the duties set forth in these bylaws, but is not necessarily required to perform such duties personally, and may delegate to others the performance of any or all of such duties. For more details refer to Board Policies for more defined responsibilities and duties.

### **DUTIES OF THE VICE-PRESIDENT**

20. The Vice-President shall have all the powers and perform the duties of the President in the absence or disability of the President (refer to section 19). The Vice President shall be an ex-officio member of all Board Committees (both standing and ad hoc). The Vice-President will assist the President as required in the execution of their duties. The Vice-President will have such powers and perform such duties as may from time to time be assigned to him or her.

### **DUTIES OF SECRETARY**

21. The Secretary shall be ex officio clerk of the Board of Directors. The Secretary shall be responsible for the duties set forth in the by-laws, however, the Secretary is not necessarily required to perform such duties personally, and may delegate to others the performance of any or all of such duties.

22. The Secretary shall attend all meetings of the Board of Directors and record the minutes of the proceedings in the books kept for that purpose. The Secretary shall give all notices required to be given to members and Directors.

23. The Secretary shall be the custodian of the seal of the corporation and of all books, papers, records, correspondence, contracts and other documents belonging to the board which he/she shall deliver up only when authorized by a resolution of the Board of Directors to do so and to such person or persons as may be named in the resolution and he/she shall perform such other duties as may from time to time be determined by the Board of Directors.

### **DUTIES OF THE TREASURER**

24. The Treasurer shall be responsible for the duties set forth in the by-laws, however, the Treasurer is not necessarily required to perform such duties personally, and will delegate to the Executive Director, hereafter referred to as the ED (and the ED's assigned bookkeeper) the performance of any or all of such duties. The Treasurer, or person performing the usual duties of a Treasurer, shall review and provide direction and advice to the ED and the assigned

bookkeeper as required as to their management and maintenance of full and accurate accounts of all receipts and disbursements of the corporation in proper books of account and of the ED management and deposit all moneys or other valuable effects in the name and to the credit of the corporation in such bank or banks as may from time to time be designated by the Board of Directors. The Treasurer shall ensure that there are financial controls instituted by the ED over the disbursement of funds as managed by the Executive Director of the corporation under the direction of the Board of Directors, taking proper vouchers therefore and shall render to the Board of Directors at regular meetings thereof or whenever required by him/her, an account of the transactions as Treasurer, and of the financial position of the corporation. The Treasurer shall also perform such other duties as may from time to time be determined by the Board of Directors.

### **EXECUTION OF DOCUMENTS**

25. Deeds, transfers, licences, contracts and engagements on behalf of the corporation shall be signed by either the President or the Vice-President and by the Secretary, and the Secretary shall affix the seal of the corporation to such instruments as require the same.

26. Contracts in the ordinary course of the corporation's operations may be entered into on behalf of the corporation by the President, Vice-President, and Treasurer or by any person authorized by the Board.

27. The President, Vice-President, Secretary or Treasurer, or any one of them or any person or persons from time to time designated by the Board of Directors may transfer any and all shares, bonds or other securities from time to time standing in the name of the corporation in its individual or any other capacity or as trustee or otherwise and may accept in the name and on behalf of the corporation transfers of shares, bonds or other securities from time to time transferred to the corporation, and may affix the corporate seal to any such transfers or acceptances of transfers, and may make, execute and deliver under the corporate seal any and all instruments in writing necessary or proper for such purposes, including the appointment of an attorney or attorneys to make or accept transfers of shares, bonds or other securities on the books of any company or corporation. Notwithstanding any provisions to the contrary in the by-laws of the corporation, the Board of Directors may at any time by resolution direct the manner in which, and the person or persons by who, any particular instrument, contract or obligations of the corporation may or shall be executed.

### **BOOKS AND RECORDS**

28. The Directors shall ensure that all necessary books and records of the corporation required by the by-laws of the corporation or by any applicable statute or law are regularly and properly kept.

## **MEMBERSHIP**

29. Members of the corporation shall be any person admitted as a member by the Board of Directors as per Board policy. The Board of Directors shall determine all criteria relating to membership. The corporation has four different types of memberships that come with a number of benefits. The membership types are Family, Individual, Senior and Corporate. Please note the following: 1) Family membership, only the primary contact on the membership has voting rights, 2) Corporate Membership: there are no voting rights for any member under a corporate membership. The Board of Directors may revoke the membership of any member at any time by a majority vote.

## **MEMBERSHIP DUES**

30. The membership dues or fees payable by the members shall be recommended by the Executive Director from time to time and approved by the board. The Executive Director shall notify the members of the amount of the membership renewal dues or fees payable and the date upon which they are payable and if such dues or fees are not paid within thirty days of the due date the members in default shall thereupon automatically cease to be members, but such members, upon payment of all unpaid dues or fees may be reinstated at the discretion of the Executive Director.

## **ANNUAL AND OTHER MEETINGS OF MEMBERS**

31. The annual or other meetings of the members shall be held at the head office of the corporation or elsewhere in Ontario as the Board of Directors may from time to time determine and on such days in such month or months as the said Directors shall appoint.

32. At every annual member's meeting, in addition to any other business that may be transacted, the reports of the Officers and staff, the financial statements and the report of the auditors shall be presented, auditors appointed for the ensuing fiscal year, and an election for the vacant positions on Board of Directors shall be held.

33. The Directors may, whenever they think necessary, and shall, upon requisition in writing of no less than twenty (20) percent of the membership which clearly expresses the object of the meeting proposed to be called, convene a special general meeting. If the Directors do not within thirty days from the date the requisition was deposited with the Secretary proceeds to call a special general meeting one of the requisitioners may call such a special general meeting provided that notice is given as in paragraph 34.

34. No public notice or advertisement of members meetings, annual or general shall be required, but notice of the time and place of every such meeting shall be given to each member by sending the notice by prepaid post, telephone or electronic mail, thirty days before the time fixed for the holding of such meetings and at such meeting any business may be transacted which the corporation at annual or general members' meetings may transact.

#### **ERROR OR OMISSION IN NOTICE**

35. No error or omission except where a majority of the total membership does not receive a notice in a reasonable amount of time of any annual or general meeting or any adjourned meeting, whether annual or general, of the members of the corporation, shall invalidate such meeting or make void any proceedings have taken thereat and any member may at any time waive notice of any such meeting and ratify, approve and confirm any or all proceedings taken or had thereat. For the purpose of sending notice to any member, Director or Officer for any meeting or otherwise, the address of any member, Director or Officer shall be his/her last known contact information recorded on the books of the corporation.

#### **ADJOURNMENTS**

36. Any meetings of the corporation or of the Directors may be adjourned to any time and from time to time and such business may be transacted at such adjourned meeting as might have been transacted at the original meeting from which such adjournment took place. No notice shall be required of any such adjournment. Such adjournment may be made notwithstanding that no quorum is present.

#### **QUORUM OF MEMBERS**

37. A quorum for the transaction of business at any meeting of the Corporation shall consist of fifty percent of the voting members of the Corporation represented in person.

#### **VOTING BY MEMBERS**

38. Subject to the provisions, if any, contained in the Articles of Incorporation of the corporation, each member of the corporation shall at all meetings of members are entitled to one vote if your membership type has voting rights (refer to section 29)

39. No member shall be entitled to vote at meetings of the corporation unless he/she has paid all dues or fees, if any, then payable by him/her.

40. At all meetings of members, every question shall be decided by a majority of the votes of the members present in person unless otherwise required by the by-laws of the corporation, or by law. Voting by proxy shall not be permitted. Every question shall be decided in the first instance by a show of hands unless a written ballot is demanded by any member. Upon a show of hands, every member having voting rights shall have one vote. Unless a written ballot be demanded a declaration by the President that a resolution has been carried or not carried and an entry to that effect in the minutes of the corporation shall be admissible in evidence as prima facie proof of the facts without proof of the number or proportion of the votes accorded in favour of or against such resolution. The demand for a written ballot may be withdrawn, but if a written ballot be demanded and not withdrawn the question shall be decided by a majority of votes given by the members present, and such written ballot shall be taken in such a manner as the President shall direct and the result of such written ballot shall be deemed the decision of the corporation in general meeting upon the matter in question. In case of an equality of votes at any general meeting, whether upon a show of hands or at a written ballot, the President shall be entitled to a casting vote.

#### **ORDER OF BUSINESS AT BOARD MEETINGS**

41.  
Call to Order/Regrets  
Acceptance of Agenda  
Acceptance of the Minutes of the Last Meeting  
Business Arising  
Correspondence  
Treasurer's Report  
Director's Report  
Curator's Report  
Corporate Outreach  
Committee Reports  
New Business  
Adjournment

#### **ORDER OF BUSINESS ANNUAL MEMBERS MEETING**

42.  
Call to Order/Regrets  
Acceptance of Agenda  
Introductions-Board and Staff  
Guest Speaker  
Acceptance of Minutes of the Last Meeting  
President's Report  
Treasurer's Report  
Director's Report  
Curator's Report

Election of Directors  
New Business  
Presentation of Awards  
The date for the first meeting of the Board of Directors

### **EXECUTIVE DIRECTOR COMPENSATION**

43. The Board of Directors shall hire, fix the compensation, provide direction and terminate the Executive Director which they in their discretion may determine to be necessary for the conduct of the business of the organization. The Board of Directors shall ensure that there is a yearly performance review of the Executive Director. In the absence of the Executive Director, the President of the board may execute the responsibilities and duties of the Executive Director until a replacement Executive Director is hired or the Executive Director returns to perform their normal duties.

### **COMMITTEES**

44a. All committees of this organization shall be appointed by the Board of Directors and their term of office shall be for a period of one year or less if terminated by the action of the Board of Directors. The committees shall consist of the following: Governance, Finance, and Fundraising

44b Ad-hoc committees: There may be such ad-hoc committees and for such purposes as the Board of Directors may determine from time to time by resolution, such examples of ad-hoc committees are an HR, Strategic Planning, etc.

### **FINANCIAL YEAR**

45. Unless otherwise ordered by the Board of Directors the fiscal year of the corporation shall terminate on the 31<sup>st</sup> day of December in each year.

### **CHEQUES**

46a. All cheques, bills of exchange or other orders for the payment of money, notes or other evidence of indebtedness issued in the name of the corporation, shall be signed by such officer or officers, agent or agents of the corporation and in such manner as shall from time to time be determined by resolution of the Board of Directors and any one of such officers or agents may alone endorse notes and drafts for collections on account of the corporation through its bankers and endorse notes and cheques for deposit with the corporation's bankers for the credit of the corporation, or the same may be endorsed for "collection" or "for deposit" with the bankers of the corporation by using the corporation's rubber stamp for the purpose. Anyone of such officers or agents so appointed may

arrange, settle, balance, and certify all books and accounts between the corporation and the corporation's bankers and may receive all paid cheques and vouchers and sign all the bank's forms or settlement of balances and release or verification slips. Cheques must be signed by any two of the following: The President, the Vice-President, the Treasurer, and the Executive Director.

46b Electronic banking procedures are permitted which follow the defined process outlined in the Financial Procedure Handbook as approved by the Board President and Executive Director.

### **DEPOSIT OF SECURITIES FOR SAFEKEEPING**

47. The securities of the corporation shall be deposited for safekeeping with one or more bankers, trust companies or other financial institutions to be selected by the Board of Directors.

48. Any and all securities so deposited may be withdrawn, from time to time, only upon written order of the corporation signed by such officer or officers, agent or agents of the corporation and in such manner, as shall from time to time be determined by the resolution of the Board of Directors and such authority may be general or confined to specific instances. The institutions which may be so selected as custodians of the Board of Directors shall be fully protected in acting in accordance with the directions of the Board of Directors and shall in no event be liable for the due application of the securities so withdrawn from deposit or the proceeds thereof.

### **NOTICE**

49. Whenever under the provisions of the by-laws of the corporation, notice is required to be given, such notice may be either personally emailed, faxed or sent by ordinary pre-paid mail addressed to the Director, Officer, member of the corporation at his/her other address as the same appears on the books of the corporation.

50. A notice or other document so sent by post shall be deemed to be sent at the time when the same was deposited in a post office or public letter-box as aforesaid if emailed or faxed-at the time of transmission. For the purpose of sending any notice the address of any member, Director or Officer shall be his last address as recorded on the books of the corporation.

### **BORROWING**

51. From time to time the directors of the board may pass a resolution authorizing the Corporation to:

- (a) borrow money on the credit of the corporation;

- (b) issue, sell or pledge securities of the corporation;
- (c) charge, mortgage, hypothecate, or pledge all or any of the real or personal property of the corporation, including book debts, rights, powers, franchises and undertakings, to secure any securities or any money borrowed, or other debt, or any other obligation or liability of the corporation.
- (d) Leases in excess of \$1000 in Capital Value are considered borrowing for the purposes of this Section

52. From time to time the Board of Directors may authorize any Director, Officer or employee of the corporation or any other person to make arrangements with reference to the moneys borrowed or to be borrowed as per section 51 and as to the terms and conditions of the loan thereof, and as to the securities to be given therefore, with power to vary or modify such arrangements, terms and conditions and to give such additional securities for any moneys borrowed or remaining due by the corporation as the Board of Directors may authorize and generally to manage, transact and settle the borrowing of money by the corporation.

**INTERPRETATION**

53. In these by-laws and in all other by-laws of the corporation hereafter passed unless the context otherwise requires, words importing the singular number or the masculine gender shall include the plural number or the feminine gender, as the case may be, and vice versa and references to persons shall include firms and corporations.

**AMENDMENTS**

54. These by-laws may be altered, amended, repealed or added to by a Quorum of Members (refer to section 37) attending the Annual Members Meeting. The membership shall be notified of altered, amended or repealed bylaws and these changes will be made available to the membership 30 days prior to the Annual Members Meeting.

Enacted this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
President

\_\_\_\_\_  
Secretary