

CONSTITUTION AND BYLAWS
OF
BURNABY AND REGION ALLOTMENT GARDENS ASSOCIATION



Passed on November 16, 2019 at BARAGA SGM

**CONSTITUTION AND BYLAWS
OF BURNABY AND REGION ALLOTMENT GARDENS ASSOCIATION**

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**CONSTITUTION AND BYLAWS
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In conformity with the Societies Act of British Columbia, this document sets forth the Constitution and Bylaws of the Burnaby and Region Allotment Gardens Association ("BARAGA").

CONSTITUTION

1. The name of the Society is BURNABY AND REGION ALLOTMENT GARDENS ASSOCIATION.
2. The purposes of the Society are:
 - a) To provide opportunities for non-profit, recreational fruit and vegetable gardening for residents of an urban area.
 - b) To provide horticultural advice and shared experience for members, and to encourage those who wish to undertake such gardening for the first time.
 - c) To perpetuate, in an increasingly technological age, an awareness of the natural processes of food growing.

BYLAWS

Part 1 - Definitions and Interpretation

Definitions

- 1.1 In these Bylaws:
 - a) "**Act**" means the Societies Act of British Columbia, as amended from time to time;
 - b) "**Board**" means the Directors of the Society;
 - c) "**Bylaws**" means these Bylaws, as altered from time to time;
 - d) "**Rules**" means Rules of BARAGA, as altered from time to time;
 - e) "**Ordinary Resolution**" means a resolution passed at a general meeting by a simple majority of the votes cast by the eligible members voting;
 - f) "**Special Resolution**" means a resolution passed at a general meeting by at least 3/4 of the votes cast by the eligible members voting;

Definitions in Act apply

- 1.2 The definitions in the Act apply to these Bylaws.

Conflict with Act or Regulations

- 1.3 If there is a conflict between these Bylaws and the Act or the Regulations under the Act, the Act or the Regulations prevail.

Changes to Bylaws

- 1.4 A special resolution is required to change a Bylaw of BARAGA.

Part 2 - Members

Application for Membership

- 2.1 Persons aged 19 or older may apply to the Board for membership in the Society, and they become members upon the Board's acceptance of the application, and payment of the applicable fees. Re-applying for membership requires a waiting period of at least one year from the date of termination.
- 2.2 Regular members are those individuals who qualify and who are the primary signatories on the plot rental agreement. Regular members are voting members and have a right to vote.
- 2.3 Associate members are individuals who are designated by the regular member as an associate member on the plot rental agreement. Associate members are not voting as of right, but can vote only if the regular member for their plot is in good standing and:
 - a) does not attend a membership meeting, which will have the effect of delegating their voting right to the associate member on their plot; or
 - b) attends a membership meeting but, delegates their voting right to the associate member on their plot when signing in at the membership meeting.
- 2.4 Only one vote is allowed per plot. Only one voting card or ballot can be issued per plot.
- 2.5 If there is no agreement between a regular member and an associate member regarding who will vote at a general meeting, the regular member will vote and the associate member will not.
- 2.6 Only one associate member is allowed per plot, and a person can only be an associate on one plot.
- 2.7 Family of regular members listed on the plot rental agreement are members, but they may not vote unless they are designated as associate members on the plot rental agreement, in which case their voting ability will be defined by Bylaws 2.3 – 2.6.
- 2.8 Family of regular and associate members may attend general meetings as observers, but they may not vote unless otherwise provided for under these Bylaws.

Duties of Members

- 2.9 Every member must uphold the Constitution and comply with the Bylaws and Rules of BARAGA. Members are responsible for the actions of their family members and guests.
- 2.10 The plot rental agreement is a legally binding contract between the Society and the plot renters.

Membership dues and other fees

- 2.11 Regular members shall pay annual dues and fees consisting of three items:
 - a) membership dues
 - b) a plot rental fee
 - c) a fee in lieu of community service hours not performed
- 2.12 The amount of the membership dues, plot rental fees, and fees in lieu of Community Service Hours, and the number of Community Service Hours shall be determined by an ordinary resolution at a general meeting of the Society. The Board of Directors shall determine the deadline for receipt of these dues and fees.
- 2.13 Membership dues are non-refundable.

Members not in good standing

- 2.14 A member is not in good standing if that member fails to pay any of the dues or fees applicable under section 2.6 or 2.7 by the due date, or at the Annual General Meeting if it is held before the due date, whichever comes sooner; and remains not in good standing for as long as those dues and fees remain unpaid.

Members not in good standing may not vote

- 2.15 A voting member who is not in good standing may not vote at a general meeting and is deemed not to be a voting member for the purpose of conducting business at a general meeting.

Termination of Membership

- 2.16 A person's membership in the Society is terminated:
- a) by communicating one's resignation in writing to the Board of Directors, who will notify the secretary of the Society;
 - b) on one's death;
 - c) if the person is not in good standing for 3 consecutive months;
 - d) on being expelled;
 - e) upon termination of plot rental agreement.

Expulsion of Members

- 2.17 A member may be expelled for the following reasons:
- a) unauthorized removal of produce or goods from BARAGA, including other members' plots;
 - b) unauthorized interference with another member's plot or property;
 - c) willfully damaging or causing to be damaged, Baraga or another member's property or person;
 - d) Before a member is expelled for reasons 2.13 (a), (b) and (c) clear evidence as to the nature of the offence, the date of its perpetration and the number of the plot violated, if applicable, must be given to the directors in writing.
- 2.18 A member may be expelled by a resolution approved by 3/4's of the directors at the directors' meeting called for that purpose.
- a) The notice of resolution for expulsion must be accompanied by a brief statement of the reasons for the proposed expulsion.
 - b) Before the resolution is put to a vote, the directors must elect or appoint a panel of three (3) directors to investigate the proposed expulsion and make a recommendation to the directors.
 - c) The person who is the subject of the proposed resolution for expulsion must be given an opportunity to be heard by the panel or directors before the resolution is put to a vote.
 - d) The directors may accept or reject the panel's recommendation, as the Board sees fit.
- 2.19 A member may be expelled by a special resolution of the membership in the manner prescribed by the Societies Act.
- 2.20 The notice of special resolution for expulsion shall be accompanied by a brief statement of the reason or reasons for the proposed expulsion.
- 2.21 The person who is the subject of the proposed resolution for expulsion shall be given an opportunity to be heard at the general meeting before the special resolution is put to a vote.

2.22 No fee shall be refunded for expulsions under section 2.15.

Termination of plot rental

2.23 Plot rentals may be terminated for the following reasons:

- a) Failure to adhere to the Rules associated with the Plot Rental Agreement.
- b) Members may terminate their plot rental by providing written notice to the Board.
- c) A member's plot rental is terminated if the member is not in good standing for 3 months.

2.24 The Board will work with members to facilitate adherence to the Rules. Members are responsible for communicating their need for assistance to the Board.

Discipline of Member

2.25 A member may be disciplined in accordance with the Society's Bylaws, and Rules.

2.26 Following an appropriate investigation or review of a member's conduct or actions, including providing a reasonable opportunity to respond, and deliberation by the Board; the Board may discipline or propose to expel a member for conduct which, in the reasonable opinion of the Board, is contrary to the Society's Bylaws, and Rules.

2.27 If discipline is applied, the Board must provide written notice to the member, including reasons and process to be followed for dispute resolution.

Appeal of Board's decisions regarding membership expulsion, termination of plot rental or discipline:

2.28 Members wishing to appeal a Board's decision under this section heading can ask, within a timeline prescribed by the Board which is be no less than 30 days from being notified by Board of its decision, for a hearing before general membership. At the said hearing, the onus would be on the Board to obtain a special resolution vote in favour to ratify the Board's decision.

2.29 No affected plots related to the appeal can be re-assigned before the general membership reaches their decision on the appeal.

Part 3 - General meetings of Members

Notice, time and place of general meeting

3.1 A general meeting must be held at the time and place the Board determines at least once in every calendar year at a location in the City of Burnaby or within 5 km from a City of Burnaby boundary.

3.2 A notice must be given to a member, either by mail, or e-mail to the member at the member's most current address, or as stated in the Membership Application.

3.3 Notice must be sent at least 14 days before the meeting by regular or e-mail to the member's registered address. The notice shall also be posted a minimum of 21 days before the meeting, on BARAGA's website – www.baraga.ca.

Ordinary business at general meeting

3.4 At a general meeting, the following business is ordinary business:

- a) adoption of rules of order;
- b) consideration of any financial statements of the Society presented to the meeting;

- c) consideration of the reports, if any, of the directors or auditor;
- d) election or appointment of directors;
- e) appointment of an auditor, if any;
- f) business arising out of a report of the directors not requiring the passing of a special resolution.

Notice of special business

- 3.5 Notice of a general meeting must state the nature of any business, other than ordinary business, to be transacted at the meeting in sufficient detail to permit a member receiving the notice to form a reasoned judgment concerning that business, and in the case of a special resolution, the text of the resolution.

Chair of general meeting

- 3.6 The following individual is entitled to preside as the chair of a general meeting:
- a) The individual, if any, appointed by the Board to preside as the chair;
 - b) If the Board has not appointed an individual to preside as the chair or the individual appointed by the Board is unable to preside as the chair,
 - (i) the president,
 - (ii) the vice-president, if the president is unable to preside as the chair, or
 - (iii) one of the other directors present at the meeting, if both the president and vice-president are unable to preside as the chair.

Alternative Chair of general meeting

- 3.7 If there is no individual entitled under these Bylaws who is qualified to preside as the chair of a general meeting within 15 minutes from the time set for holding the meeting, the voting members who are present must elect an individual present at the meeting to preside as chair.

Quorum required

- 3.8 Business, other than the election of the chair of the meeting and the adjournment or termination of the meeting, must not be transacted at a general meeting unless a quorum of voting members is present.

Quorum for general meeting

- 3.9 The quorum, for the transaction of business, at a general meeting, is 10% of voting members; except in the case of dissolution, where it may be 3 as per the Societies Act.

Lack of quorum at commencement of meeting

- 3.10 If, within 30 minutes from the time set for holding a general meeting, a quorum of voting members is not present,
- a) in the case of a meeting convened on the requisition of members, the meeting is terminated, and
 - b) in any other case, if a quorum is not present within 30 minutes from the time set for holding the meeting, the voting members who are present constitute a quorum for that meeting.

If quorum ceases to be present

- 3.11 If, at any time during a general meeting, there ceases to be a quorum of voting members present, business then in progress must be suspended until there is a quorum present as determined under 3.9(b) or until the meeting is adjourned or terminated.

Adjournments by Chair

- 3.12 The chair of a general meeting may, or, if so directed by the voting members at the meeting, must, adjourn the meeting from time to time and from place to place, but no business may be transacted at the continuation of the adjourned meeting other than business left unfinished at the adjourned meeting.

Notice of continuation of adjourned general meeting

- 3.13 It is not necessary to give notice of a continuation of an adjourned general meeting or of the business to be transacted at a continuation of an adjourned general meeting except that, when a general meeting is adjourned for 30 days or more, notice of the continuation of the adjourned meeting must be given.

Order of business at general meeting

- 3.14 The order of business at a general meeting is as follows:
- a) elect an individual to chair the meeting, if necessary;
 - b) determine that there is a quorum;
 - c) approve the agenda;
 - d) approve the minutes from the last general meeting;
 - e) deal with unfinished business from the last general meeting;
 - f) if the meeting is an annual general meeting,
 - (i) receive the directors' report on the financial statements of the Society for the previous financial year, and the auditor's report, if any, on those statements,
 - (ii) receive any other reports of directors' activities and decisions since the previous annual general meeting,
 - (iii) elect or appoint directors, and
 - (iv) appoint an auditor, if any;
 - g) deal with new business, including any matters about which notice has been given to the members in the notice of meeting;
 - h) hold elections for the Board of Directors;
 - i) terminate the meeting.

Voting

- 3.15 All voting members in good standing are entitled to vote. Only one vote per plot is allowed.

Methods of voting

- 3.16 At a general meeting, voting must be by issued voting cards, except when a majority of the voting members request a secret ballot; or a secret ballot is directed by the chair of the meeting, voting must be by a secret ballot.

Proxy voting not permitted

3.17 Voting by proxy is not permitted. All voting must be in person.

Non-profit association voting

3.18 A non-profit association member may vote only by its authorized representative.

Matters decided at general meeting by ordinary resolution

3.19 A matter to be decided at a general meeting must be decided by ordinary resolution unless the matter is required by the Act or these Bylaws, to be decided by special resolution or by another resolution having a higher voting threshold than the threshold for an ordinary resolution. Rules must be decided by ordinary resolution, unless the Rule specifies otherwise.

Announcement of result

3.20 The chair of a general meeting must announce the outcome of each vote and that outcome must be recorded in the minutes of the meeting.

Nominations Committee and consent to act as Director

3.21 The directors shall appoint a nominating person or committee whose task shall be to identify and propose for election persons for each of the positions of president, vice-president, secretary, treasurer and at least three directors-at-large.

3.22 The nominating person or committee shall seek the views of the Society's members in discharging its task and shall have prepared a list of nominees at least 21 days before the annual general meeting.

3.23 A designation, election or appointment of an individual as director is invalid unless
a) the individual signs a "Consent to Act as Director" form, or
b) the individual is present at the meeting and consents to be a director.

3.24 Nominations to the Board shall be open to all voting members in good standing.

Part 4 – Directors

Duties of Directors

4.1 Pursuant to the Act, every director will:

- a) Act honestly and in good faith with a view to the best interests of the Society;
- b) Exercise the care, diligence, and skill that a reasonable, prudent individual would exercise in comparable circumstances;
- c) Act in accordance with the Societies Act and the regulations there under; and these bylaws.

4.2 The Board may establish policies relating to the affairs of the Society as it deems expedient, provided that no policies are valid to the extent that it is inconsistent with the Act, the Constitution, these Bylaws or the Society's Rules. Changes to policies will be communicated to members by e-mail, posted on baraga.ca and BARAGA's bulletin boards.

Number of Directors on the Board

4.3 The number of directors must be a minimum of 5 and a maximum of 15.

Election or appointment of Directors

- 4.4 At each Annual General Meeting, the voting members must elect or appoint the Board.
- 4.5 A director's term of office expires at the close of the next Annual General Meeting after the director's designation, election, or appointment.
- 4.6 Separate elections must be held for each office to be filled.
- 4.7 An election may be by acclamation; otherwise it must be by ballot.
- 4.8 If a successor is not elected, the person previously elected or appointed continues to hold office unless he or she resigns or is incapacitated.
- 4.9 The directors are eligible for re-election.
- 4.10 No member may serve more than 5 consecutive terms as a president.

Directors may fill casual vacancy on the Board

- 4.11 The Board may, at any time, appoint a voting member in good standing as a director to fill a vacancy that arises on the Board as a result of the resignation, death or incapacity of a director during the director's term of office.

Term of appointment of Director filling casual vacancy

- 4.12 A director appointed by the Board to fill a vacancy ceases to be a director at the end of the unexpired portion of the term of office of the individual whose departure from office created the vacancy.

Removing a Director, before the expiration of his or her term of office

- 4.13 The members may, by special resolution, 2/3 vote of the voting members present, remove a director, before the expiration of his or her term of office, and may elect a successor to complete the term of office.

Part 5 - Directors' proceedings

Calling Directors' meeting

- 5.1 A directors' meeting may be called by the president or by any 2 other directors.

Notice of Directors' meeting

- 5.2 At least 2 days' notice of a directors' meeting must be given unless all the directors agree to a shorter notice period.

Proceedings valid despite omission to give notice

- 5.3 The accidental omission to give notice of a directors' meeting to a director, or the non-receipt of a notice by a director, does not invalidate proceedings at the meeting.

Conduct of Directors' meetings

- 5.4 The directors may regulate their meetings and proceedings as they think fit. Directors may participate in a meeting electronically, only if, the system provides access to the meeting in a manner or using a method by which a person participating in the meeting can communicate concurrently with each other participant.

Quorum of Directors

5.5 The quorum for the transaction of business at a directors' meeting is a majority of the directors.

Committees

5.6 The directors may delegate any, but not all, of their powers to committees consisting of a director as chair, other directors, and or voting members as they see fit. A committee must conform to any rules imposed on it by the directors; and must report the actions of the committee in exercising those powers to the Board in a timely manner.

5.7 When the Board creates a committee, it must establish its Terms of Reference.

5.8 If no chair is designated, or if at a meeting the chair is not present within 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.

5.9 The members of a committee may meet and adjourn as they think proper and in keeping with these Bylaws.

Written consent

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

Part 6 - Board positions

Election or appointment to board positions

6.1 Directors must be elected or appointed to the following Board positions, and a director, other than the president, may hold more than one position:

- a) president;
- b) vice-president;
- c) secretary;
- d) treasurer.

Directors-at-large

6.2 Directors who are elected or appointed to positions on the Board in addition to the positions described in these Bylaws are elected or appointed as directors-at-large.

Role of President

6.3 The president is the chair of the Board and is responsible for managing the other directors in the execution of their duties.

Role of Vice-president

6.4 The vice-president is the vice-chair of the Board and is responsible for carrying out the duties of the president if the president is unable to act.

Role of Secretary

6.5 The secretary is responsible for doing, or making the necessary arrangements for, the following:

- a) issuing notices of general meetings and directors' meetings;

- b) taking minutes of general meetings and directors' meetings;
- c) keeping the records of the Society in accordance with the Act;
- d) conducting the correspondence of the Board;
- e) filing the annual report of the Society and making any other filings with the registrar under the Act;
- f) maintaining the register of members.

Absence of Secretary from meeting

6.6 In the absence of the secretary from a meeting, the Board must appoint another individual to act as secretary at the meeting or perform other secretary duties.

Role of Treasurer

6.7 The treasurer is responsible for doing, or making the necessary arrangements, for the following:

- a) receiving and banking monies collected from the members or other sources;
- b) keeping accounting records in respect of the Society's financial transactions;
- c) preparing the Society's financial statements;
- d) making the Society's filings respecting taxes.

6.8 The treasurer may serve no more than five consecutive terms.

Role of Directors at Large

6.9 The duties of directors-at-large shall be determined from time to time by the Board of Directors.

Part 7 - Remuneration of Directors and signing authority

Remuneration of Directors

7.1 These Bylaws do not permit the Society to pay any director remuneration for being a director, but the Society may, subject to the Act, pay remuneration to a director for services provided by the director to the Society in another capacity.

Signing authority

7.2 A contract or other record to be signed by the Society must be signed on behalf of the Society:

- a) By the president, together with one other executive director,
- b) If the president is unable to provide a signature, by the vice-president together with one other executive director,
- c) If the president and vice-president are both unable to provide signatures, by any 2 other directors, or
- d) In any case, by one or more individuals authorized by the Board to sign the record on behalf of the Society.

Part 8 – Dissolution

8.1 Upon the winding up and dissolution of the Society, any assets remaining after the full discharge of debts shall be paid to a recognized Canadian charitable institution

designated by the directors and approved by the members. This clause was previously unalterable.

Part 9 – Access and inspection of records

- 9.1 A member in good standing is entitled, upon providing not less than a fourteen (14) day notice in writing to BARAGA, to examine any of the following documents and records of BARAGA at the address of BARAGA during the Society's normal business hours:
- a) the Constitution and these Bylaws, and any amendments thereto;
 - b) the statement of directors and registered office of the Society;
 - c) minutes of any general meeting, including the text of each resolution passed at the meeting;
 - d) resolutions of the voting members in writing, if any;
 - e) annual financial statements relating to a past fiscal year that have been received by the members in a general meeting;
 - f) the register of directors;
 - g) the register of members;
 - h) BARAGA's certificate of incorporation, and any other certificates, confirmations or records furnished to BARAGA by the Registrar;
 - i) copies of orders made by a court, tribunal, or government body in respect of the Society;
 - j) the written consents of directors to act as such; and the disclosure of a director or of a senior manager regarding a conflict of interest;
 - k) contracts and agreements;
 - l) invoices and related documents that underline financial statements.
- 9.2 Except as expressly provided by statute or at law, a member will not be entitled or have the right to examine or inspect any other document or record of BARAGA. However, subject to such policies as the Board may establish, a member in good standing may request, in writing delivered to the address of BARAGA, to examine any other document or record of BARAGA and the Board may allow the member to examine the document or a copy thereof, in whole or in part and subject to such redaction as the Board deems necessary, all in the Board's sole discretion.
- 9.3 Copies of documents to which a member is allowed to examine may be provided on request by the member for a fee to be determined by the Board, provided such fee does not exceed the limits prescribed by the Act.
- 9.4 No other individual may inspect the records of BARAGA.

Part 10 - Borrowing and investment

- 10.1 Subject to the provisions of the Societies Act, the Board of directors may borrow such funds as may be required for carrying out the objectives of the Society, passed by a special resolution for each loan.
- 10.2 The Board of Directors may invest the financial assets of the organization in investment products offered by BARAGA's financial institution(s) provided they offer suitable liquidity and suitable risk for the needed time horizon. All investment decisions require a 2/3 vote of the directors.

Part 11 – Auditor

- 11.1 If the Society elects to appoint an auditor to review its books, it will do so in conformity with the Societies Act.

Part 12 - Without purpose of gain

- 12.1 The Society shall be carried on without the purpose of gain for its members and any profits or other accretions to the organization shall be used in promoting its objectives.

Part 13 - Robert's Rules

- 13.1 *Robert's Rules of Order* will be used as a reference where procedural issues arise.

Part 14 - Insurance

- 14.1 The member agrees to indemnify and save harmless BARAGA from all costs, losses, damages, proceedings, claims, demands and expenses incurred by BARAGA and sustained or caused by or arising out of the member's use of the plot. The member acknowledges that BARAGA does not insure the member's property and that the member is responsible for insuring their own property while such property is on or about the plot.

Part 15 – Allotment sizes and allocation

- 15.1 Garden plots are approximately 93 square meters (1000 square feet) in size (full plot); with an exception being a maximum of 40 half plots of approximately 46 square meters (500 square feet) in size.
- 15.2 Changes to garden plot sizes, either to combine or extend or reduce or divide, require 3/4 vote of the membership for each specific change except for the 40 half plots in the process of being created as plots become available for division.
- 15.3 Plot renters in good standing have the right to renew the same plots they have been renting; and, can renew their plots regardless of whether they live in the City of Burnaby or not.

Part 16 – Bylaws

- 16.1 These Bylaws may not be altered or added to except by special resolution.
- 16.2 Upon being admitted to membership, each member is entitled to, and each member shall be given free of charge, a copy of the Constitution, Bylaws, and Rules and Policies of the Society.

THESE BYLAWS ADOPTED BY SPECIAL RESOLUTION DATED: NOVEMBER 16, 2019