

# Amendments to the Constitution of the Kitchener Horticultural Society

## Material Changes

- **Article I NAME**

Current: The name of the organization shall be KITCHENER HORTICULTURAL SOCIETY, hereinafter referred to as the Society.

Updated; The name of the organization shall be KITCHENER HORTICULTURAL SOCIETY, also known as **gardenKitchener**, hereinafter referred to as the Society.

Rationale: To be inclusive of all of our common names

- **Article II MISSION**

Current: The Kitchener Horticultural Society is a volunteer charitable organization that provides leadership and education and promotes interest in gardening and related environmental issues.

Updated: The **Society** is a volunteer organization **that aims to develop and support programs for all ages and skill levels encouraging gardening, community beautification, environmental stewardship, and conservation.**

Rationale: To align with the mission of the Ontario Horticultural Association (OHA) of which we are a part

- **Article V AMENDMENTS**

Current: The Constitution may be amended or revoked provided that the changes are approved by a two-thirds majority of the votes cast at an Annual General Meeting or Special Meeting called for that purpose. A notice of motion in writing of such proposed amendment or revocation must be submitted to the Society Secretary at least 60 days in advance of the meeting so that all members may be notified within a period of 50 days prior to the meeting. Any member in good standing of the Society may submit such a notice of motion (19-6).

Updated: The Constitution may be amended or revoked provided that the changes are approved by a two-thirds majority of the votes cast at an Annual General Meeting or Special Meeting called for that purpose. A notice of motion in writing of such proposed amendment or revocation must be submitted to the Society Secretary at least 60 days in advance of the meeting so that all members may be notified within a period of 50 days prior to the meeting. Any member in good standing of the Society may submit such a notice of motion **to the Society Secretary.**

Rationale: To clarify who should be the recipient of the notice of motion.

## Non-Material Changes

There are no non-material changes being made to the Constitution at this time.

# Amendments to the By-Laws of the Kitchener Horticultural Society

## Material Changes

- **By-Law 1 INTERPRETATION**

Current: By-Law 1 INTERPRETATION

Updated: By-Law 1 DEFINITIONS

**In the By-Laws of the Society, unless the context otherwise specifies or requires:**

Rationale: This section defines terms rather than interprets terms and the preamble aligns with OHA Act.

- **Changes to Definitions:**

Current: “Annual General Meeting” (AGM) also means Annual Meeting as is found in the Corporation Act RSO 1990 c.C38 and the Agricultural and Horticultural Organizations Act RSO 1990 c.A.9 (21-7).

Updated: “Annual General Meeting” (AGM) also means Annual Meeting as is found in the Corporation Act RSO 1990 c.C38 and the Agricultural and Horticultural Organizations Act RSO 1990 c.A.9 **s. 10(1)**

Rationale: Removal of unnecessary legislation references and update of remaining references

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Current: “Society” means the Kitchener Horticultural Society.

Updated: “Society” means the Kitchener Horticultural Society, **also known as gardenKitchener.**

Rationale: To include all of our known names

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Current: N/A

Updated: “Executive Committee” is the collection of individuals comprised of the Former President, President, Vice-President, and Treasurer”

Rationale: This definition is needed but did not exist currently

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Current: “Member” means an individual who pays the annual fee to a Society according to the Act (19-8).

Updated: “Member” means an individual **as defined in By-Law 5.**

Rationale: There are different types of memberships that need to be defined

Current: “Chairman” means the individual appointed to lead a meeting. This individual may be the President of the Society or a delegate.

Updated: “**Chair**” means the individual appointed to lead a meeting. This individual may be the President of the Society or a delegate

Rationale: To align with OHA Act language

- **By-Law 2 INTERPRETATION**

Current: N/A (this addition will cause renumbering in all following By-Laws)

Updated: It is understood that where the masculine gender is used in the Constitution and By-Laws, that the feminine gender and non-binary gender shall equally apply.

Words importing the singular include the plural and vice versa, and words importing one gender include all genders.

Rationale: To align with the OHA Act language and to have an appropriate section for such a clause

- **By-Law 3 HEAD OFFICE**

Current: The head office of the Society shall be located at the Garden House 7 Floral Crescent, Kitchener Ontario or as determined from time to time.

Updated: The head office of the Society shall be located at the Garden House 7 Floral Crescent, Kitchener Ontario or **at such place as determined from time to time.**

Rationale: To align with the OHA Act language

- **By-Law 4 CORPORATE SEAL**

Current: N/A (this addition will cause renumbering in all following By-Laws)

Updated: The seal, an impression and/or image of which is affixed in the margin hereto, shall be the corporate seal of the Society.

Rationale: This is something that was previously missing from our By-Laws

- **By-Law 5 MEMBERSHIP**

- 5-1**

Current: Every person six (6) years of age and older shall be entitled to be a member to the Society by paying the annual fee but no person under the age of eighteen (18) years is eligible to vote at meetings of the Society. Any member under the age of 18 years shall be an Associate Youth Member and shall have all the privileges of full membership except as specifically set out herein.

Updated: **Any person** shall be entitled to be a member of the Society by paying the annual fee, **with the exception of the types of Memberships defined below where the fee is waived.**

Rationale: To align with the OHA Act language

#### 5-4

Current: Honorary Membership – The Board of Directors may award Honorary Memberships in the Society. In such cases the annual membership fee shall be waived but Honorary members have all the privileges of full membership.

Updated: **Recipient(s) of the Society's President's Award** – The Board of Directors may award a Membership for a given year in the Society in **recognition of special service to the Society**. Such member shall have all the privileges of full membership but the annual membership fee shall be waived **for the year**.

Rationale: To align with the OHA Act terminology

#### 5-5

Current: Life Honorary Membership – The Board of Directors may award Life Honorary Memberships in the Society in recognition of distinguished service to the Society over a period of years. In such cases the annual membership fee shall be waived but Life Honorary members shall have all the privileges of full membership.

Updated: Life Membership – The Board of Directors may award Life Memberships in the Society in recognition of distinguished service to the Society over a period of **not less than fifteen** years. A Life member shall have all the privileges of full membership but the annual membership fee shall be waived **for all future years**.

Rationale: To align with the OHA Act terminology

#### 5-6

Current: Privileges of Membership – All members shall be entitled to participate in the activities of the Society, to vote or hold office in the Society. Only those who were members during the previous year are entitled to vote at the annual meeting

Updated: Privileges of Membership – All members shall be entitled to participate in the activities of the Society. **Only those 18 years of age or older are eligible to vote or hold office in the Society**. Only those who were members during the previous year are entitled to vote at the Annual General Meeting.

Rationale: To align with other By-Law language

- **By-Law 6 OBJECTIVES**

Current: The objectives of the Society as defined by the Act are to encourage interest and improvement in horticulture by (items 1-10) The Society shall not spend more than one-half of its total annual receipts, excluding grants or donations made for specific purposes upon any one of the projects enumerated in(a) through (c) above except for the planting of trees, shrubs and plants on public grounds and the promotion of outdoor beautification.

Updated: The objectives of the Society as defined by the Act are to encourage interest and improvement in horticulture. **The Society may meet these objectives by: (items 1-10 remain as is)** The Society shall not spend more than one-half of its total annual receipts, excluding grants or donations made for specific purposes upon any one of the projects above except for the planting of trees, shrubs and plants on public grounds and the promotion of outdoor beautification.

Rationale: To align with the OHA Act

- **By-Law 7 DIRECTORS**

**7-2**

Current: The executive Committee including the President, Vice-President and Treasurer will be elected at each annual meeting as well as a Board of Directors.

Updated: The **President, Vice-President and Treasurer shall** be elected at each Annual General Meeting as well as a Board of Directors.

Rationale: To align with the rest of the document and actual processes

**7-3**

Current: **No current reference, this is a new provision**

Updated: All Board members are required to sign, and agree to the terms of, the Oath of Office & Confidentiality Agreement and the Code of Conduct upon their election.

Rationale: To align with our processes and standard

**7-6**

Current: In the event of a vacancy occurring on the death or resignation of any Director or failure to attend three consecutive meetings (without extenuating circumstances) the remaining members of the Board shall have the power to appoint any member of the Society to fill such vacancy.

Updated: Updated: In the event of a vacancy occurring **due to** the death or resignation of any Director, or **for failure of a Director** to attend three consecutive meetings (without extenuating circumstances), the remaining members of the Board shall have the power to appoint any member of the Society to fill such vacancy.

Rationale: To align with ONCA legislation

## 7-8

Current: The Board of Directors may appoint from time to time Honorary, Life Honorary and Youth Directors who would be entitled to attend meetings of the Board of Directors but would not be entitled to vote as a Director nor move or second motions.

Updated: The Board of Directors may, **from time to time**, appoint **President Award recipient(s) and/or Life Membership recipient(s)** who would be entitled to attend meetings of the Board of Directors, but would not be entitled to vote as a Director nor move or second motions.

Rationale: To align with the membership types previously listed

## 7-9

Current: **No current reference, this is a new provision**

Updated: All Officers shall serve for a one-year term, unless re-elected. In the event that a new President is not elected at the Annual General Meeting, the immediate Past President shall remain until a new President is elected.

Rationale: To align with ONCA legislation

## 7-10

Current: Powers and Duties – In addition to other specific powers and duties assigned elsewhere in this Constitution, the Board shall:

- a. Take the initiative in preparing general policies and actions;
- b. Put into effect such policies and actions as the Board of Directors shall decide are appropriate;
- c. Have power to enter into contracts in the name of the Society;
- d. Be responsible for the management of the affairs of the Society between general meetings; and
- e. Enquire into the sufficiency of the security given by the Treasurer.

Updated: Powers and Duties – In addition to other specific powers and duties assigned elsewhere in **these By-Laws**, the Board shall: (a-e remain unchanged)

**The Directors shall serve as such without remuneration and no Director shall directly or indirectly receive any profit from occupying the position of Director; subject to the following:**

- i. **Directors may be reimbursed for reasonable expenses they incur in the performance of their Directors' duties;**
- ii. **Directors may be paid remuneration and reimbursed for expenses incurred in connection with services they provide to the Corporation in their capacity other than as Directors, provided that the amount of any such remuneration or reimbursement is:**
  - a. **considered reasonable by the Board;**
  - b. **approved by the Board for payment by resolution passed before such payment is made; and**
  - c. **in compliance with the conflict of interest provisions of the Act; and**
- iii. **Notwithstanding the foregoing, no Director shall be entitled to any remuneration for services as a Director or in other capacity if the Corporation is a charitable corporation, unless the provisions of the Act and the law applicable to charitable corporations are complied with, including Ontario Regulation 4/01 made under the Charities Accounting Act.**

Rationale: To align with the OHA Act

- **By-Law 8 DUTIES OF DIRECTORS**

**8-2**

Current: Past President. The immediate Past President or the person identified in by-law shall advise and assist the President where needed (19-17).

Updated:

- i. The immediate Past President shall advise and assist the President where needed.
- ii. **In the event that a new President is not elected at an annual meeting, the immediate Past President shall remain until a new President is elected (By-Law 6 s.8).**

Rationale: Ease of understanding

**8-4**

Current: Secretary. The Secretary shall attend all meetings of the Society and keep correct minutes, conduct the correspondence of the Society, and perform such other duties as may from time to time be prescribed by the Board.

Updated:

- i. The Secretary shall attend all meetings of the Society and keep correct minutes, conduct the correspondence of the Society, and perform such other duties as may from time to time be prescribed by the Board.
- ii. **The Secretary shall cause the Minutes of the Annual General Meeting and/or Special Meeting to be posted online no later than 60 days after the meeting.**

Rationale: To align with the OHA Act

**8-5**

Current: **(the only proposed change is to item d)** Working with the assigned accountant assist in the preparation of the annual financial reports.

Updated: **Assist the assigned accountant in the preparation of the annual financial reports.**

Rationale: clarity

**By-Law 9 COMMITTEES AND SUBCOMMITTEES**

Current: The Board may establish Committees and sub-Committees from time to time to conduct its business more effectively. All Committees are accountable to the Board of Directors.

Terms of reference for all Committees shall include the following:

- i. Status (standing or ad hoc)
- ii. Type (discussion, working, task force, etc)
- iii. Overall purposes
- iv. Rockway
- v. Personnel
- vi. Specific directives
- vii. Relationship to overlapping activities
- viii. Mode of operation

- ix. Any limit on expense
- x. Time and method of reporting
- xi. Composition
- xii. Assignment of staff associate members.

Updated: The Board may establish Committees and sub-Committees, from time to time, to conduct its business **most** effectively.

- i. The Board shall define the overall purpose, membership, budget, responsibilities and reporting requirements of each Committee.
- ii. All Committees and sub-Committees are accountable to the Board of Directors.
- iii. The Society shall have the following Standing Committees:
  - a. Finance
  - b. Human Resources
  - c. Events Committee
- iv. The Board of Directors shall, from time to time, establish Ad Hoc Committees for specific short-term projects.

Rationale: clarity and to align with current practices

#### **By-Law 11 MEETINGS**

##### **11-3**

Current: (change to c) and the other changes are to provisions that don't exist currently)

Updated:

- c) At a Board meeting only the Board members are eligible to vote. **Each Director, with the exception of the Chair, has one vote. Questions arising at any Board meeting shall be decided by a majority of votes, or tabled for further discussion**
- d) A quorum for meetings of the **Directors** shall be 50% plus one of the **Directors**. At all meetings of the **Directors**, every question shall be decided by a majority vote. In case of a tie, the **Chair** shall cast the deciding vote.
- e) Any member of the Society is eligible to attend a board Meeting but is not eligible to vote

Rationale: To align with ONCA legislation



#### 11-4

Current: changes to a and c only

- a. The Annual General Meeting shall be held at such time and place as the Board of Directors may decide for the purpose of allowing delegates to review the work of the year, prepare policy, approve the audited financial report, elect Officers and conduct such other business deemed necessary.
- c. At the annual meetings:
  - i. Retiring Directors of the Board shall present a report of the activities of the Society during the previous year and the audited Financial Statements
  - ii. A new Board of Directors shall be elected.

Updated:

- a. The Annual General Meeting shall be held at such time and place as the Board of Directors may decide for the purpose of allowing **members** to review the work of the year, provide input on proposed policy, approve the audited financial report, elect **Directors and Officers**, **approve the proposed auditor**, and conduct such other business deemed necessary.
- c. At the annual meetings:
  - i. Retiring Directors of the Board shall present a report of the activities of the Society during the previous year.
  - ii. **The Treasurer, or designate, shall present** the audited Financial Statements.
  - iii. A new Board of Directors shall be elected.

Rationale: Clarity and to align with current practices

#### 11-5

Current: Fifteen (15) members present shall constitute a quorum at all annual meetings.

Updated: Fifteen (15) **voting** members present shall constitute a quorum at all annual meetings.

Rationale: To align with current practices

#### **By-Law 13 AMENDMENTS**

Current:

- a. The Constitution and By-laws of the Society may be made, amended or repealed by the Board of Directors providing it is confirmed at an annual meeting or at a regular meeting of the Society called for that purpose.
- b. All regulations passed under the Agricultural and Horticultural Organization Act, RSO 1990 form part of the constitution.

Updated: The By-Laws may be amended, or revoked, provided that the changes are approved by a 2/3rd of the votes cast at an Annual General Meeting or Special Meeting called for that purpose.

The following provisions apply:

- I. A notice of motion in writing of the proposed amendment, or revocation, has been submitted to the Secretary 60 days before the meeting.
- II. Any member of the Society, in good standing, may submit such notice of motion in addition to the Board of Directors.

- III. The Secretary shall cause all members to be notified of proposed amendments 10-50 days prior to the meeting.

Rationale: To align with the OHA Act

#### **By-Law 15 EXECUTION OF DOCUMENTS AND SIGNING AUTHORITY**

Current: [This By-Law doesn't currently exist](#)

Updated:

- I. All cheques and digital payments require authorization by 2 Board Members who must also be on record with the Society's financial institution as having signing authority
- II. Any contracted entered into by the Society must be signed by 2 individuals, made up of the Executive Committee.

Rationale: To align with current practices

#### **Non-Material Changes**

- All references to undisclosed legislation will be removed as they are outdated
- All numbering will be revised to accommodate deletions and additions and all references will be updated where necessary
- All references "bylaw" and any variations of the spelling and/or formatting will be updated to "By-Law"
- All numbering of clauses within a By-Law will be updated to be roman numerals
- There are grammatical corrections made throughout the document