

THE NIAGARA PARKS COMMISSION**BY-LAW NO. 6
ADMINISTRATION OF AFFAIRS****BY-LAW NO. 6**

A by-law relating generally to the constitution of The Niagara Parks Commission (Commission) and the administration of its affairs, BE IT ENACTED as a by-law of The Niagara Parks Commission as follows:

For ease of reference, certain provisions of this by-law summarize or restate requirements of the *Niagara Parks Act*, R.S.O. 1990, c. N.3, as amended, and other applicable legislation. In the event of any inconsistency, the applicable legislation prevails.

HEAD OFFICE

1. The Head Office of The Niagara Parks Commission shall be in the City of Niagara Falls at Oak Hall, 7400 Portage Road, and at such place therein as the Commission may from time to time determine.

SEAL

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

GOVERNANCE

3. Subsection 3(2) of the *Niagara Parks Act* provides: "The Commission shall consist of not fewer than ten and not more than twelve members of whom, (a) not more than eight shall be appointed by the Lieutenant Governor in Council; (b) one member shall be appointed by resolution of the council of the Regional Municipality of Niagara; (c) one member shall be appointed by resolution of the council of the Town of Fort Erie; (d) one member shall be appointed by resolution of the council of the City of Niagara Falls; and (e) one member shall be appointed by resolution of the council of the Town of Niagara-on-the-Lake."
- 3.1 The term of office of a member appointed under clause 3(2)(a) of the *Niagara Parks Act* is as fixed by the Order-in-Council.
- 3.2 Subsection 3(3) of the *Niagara Parks Act* provides that members appointed under clauses 3(2)(b) to (e) of that Act "shall hold office for a term determined by the council that appointed them and any such term shall not exceed the term of the council that appointed them."
- 3.3 Subsection 3(5) of the *Niagara Parks Act* provides that "Where a vacancy occurs in any appointment under subsection (2), the vacancy may be filled for the remainder of the unexpired term in the same manner as the appointment."

CHAIR AND VICE CHAIR

4. Subsection 3(4) of the *Niagara Parks Act* provides that the Lieutenant Governor in Council may designate one of the members of the Commission as Chair and one as Vice Chair.

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- 4.1 The Chair shall preside at all meetings of the Commission and shall perform all duties incidental to the office. In the case of the absence, illness or incapacity of the Chair, the Vice Chair shall act as and have all the powers of the Chair. Should neither the Chair nor the Vice Chair be available to preside at a duly called meeting of the Commission due to absence, illness, or incapacity, the Commissioners in attendance, provided quorum is present, may designate a Commissioner from among those in attendance to chair that meeting only.

MEETINGS, NOTICE OF MEETINGS, AND QUORUM, THE COMMISSION

5. A majority of the Commissioners shall form a quorum for the transaction of business provided that in no case shall any meeting of the Commission be held unless there are six Commissioners present. If a quorum is still not present within 30 minutes of the scheduled start of meeting, then the recording secretary must record the names of the members present and the Commission must stand adjourned until the next meeting. Should a quorum be lost during a meeting and not regained, the meeting must stand adjourned until the quorum is restored or until the next meeting.

Where one or more Commissioners, by reason of the conflict of interest provisions of the *Public Service of Ontario Act, 2006*, S.O. 2006, c. 35, Sched. A, as amended, any of its regulations, or By-law No. 5, Fiduciary Responsibility and Conflict of Interest, are unable to participate in all or part of a meeting of the Commission, the remaining number of Commissioners shall be deemed to constitute a quorum provided such number is not fewer than three.

In the case of Standing Committees, three members of a Committee shall constitute a quorum. A quorum is lost if fewer than three members are able to participate in a meeting of the Standing Committee by reason of applicable conflict of interest requirements, including the *Public Service of Ontario Act*, its regulations, and By-law No. 5.

- 5.1 The Commission shall hold its meetings at such place or places as the Chair shall from time to time determine. Regular and special meetings of the Commission shall be called by the Chair, or in the Chair's absence, illness, or incapacity, by the Vice Chair. The Chair may appoint a day or days in any month or months for regular and special meetings of the Commission at an hour to be named.

Meetings of any Standing Committee established by the Commission shall be called by the Chair of the Standing Committee and coordinated through the Chair's Office.

Notice of any meeting shall be delivered, telephoned, faxed, e-mailed or sent by any other form of transmitted or recorded message to each Commissioner not less than two days before the meeting is to take place.

The publication of the approved schedule of meetings on The Niagara Parks

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Commission's website shall be deemed to be sufficient public notice of meetings.

- 5.2 Where all the Commissioners consent thereto either in writing, by fax, e-mail, or by any other form of transmitted or recorded message, any Commissioner may participate in a meeting of the Commission by means of a conference telephone or other communications equipment by means of which all persons participating in a meeting can hear one other. A Commissioner participating in a meeting pursuant to this section shall be deemed to be present in person at the meeting. Any consent given under this section shall be effective whether given before or after the meeting to which it relates.
- 5.3 Commission meetings shall be open to the public except where the Commission in its discretion determines that the nature of a matter to be considered warrants consideration in camera, having regard to applicable law, applicable government directives, policies and guidelines, and the Commission's by-laws. In the exercise of its discretion, the Commission shall be guided by the following criteria:
- a) the security of property under the Commission's control;
 - b) personal matters about identifiable individuals including Commissioners and employees;
 - c) a proposed or pending issuance of a licence or a proposed or pending acquisition or disposition of an interest in land by the Commission;
 - d) labour relations or employee negotiations;
 - e) litigation or potential litigation including matters before administrative tribunals affecting the Commission;
 - f) advice which is subject to Solicitor-Client privilege including communications necessary for that purpose;
 - g) matters that may or must be considered in camera meeting as required by any provincial or federal act, under applicable law, directive, order, or other legal requirement;
 - h) matters involving information or records that may be exempt from disclosure under the *Freedom of Information and Protection of Privacy Act*, R.S.O. 1990, c. F.31, as amended;
 - i) matters of which public disclosure could reasonably be expected to prejudice the Commission's legal, financial, commercial, security or operational interests and information the release of which could potentially cause damage to the Commission; and
 - j) matters involving information subject to confidentiality obligations owed to third parties.
- 5.4 All deliberations in camera shall remain confidential unless the Commission, by resolution adopted in camera, authorizes the matter to be reported in an open session of the Commission.
- 5.5 The Chair may in the Chair's sole discretion authorize a delegation to make a presentation to the Commission or a Committee.

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ERRORS IN NOTICE, THE COMMISSION**

6. No error or omission in giving notice of a meeting of the Commission shall invalidate the meeting or any proceedings taken at the meeting. A Commissioner may at any time waive notice of any such meeting and may ratify and approve of any or all proceedings taken thereat.

VOTING, THE COMMISSION

7. Questions arising at any meeting of the Commission shall be decided by a majority of votes. The Chair is a member of the Commission and is entitled to vote but may abstain from voting. In the event of a tie vote, if the Chair has not already voted, then the Chair may break the tie. If a tie vote remains, because the Chair either has already voted or continues to abstain from voting, then the matter is tabled and may be brought forward for further consideration at the same or a future meeting at the discretion of the Chair.

A motion shall be recorded in the minutes as carried, defeated or tabled. The tally of the vote shall not be recorded, and how a Commissioner voted shall not be recorded unless the Commissioner requests that the Commissioner's vote be noted on the record. A declaration by the Chair that a motion has been carried, defeated or tabled and an entry to that effect in the minutes of the Commission meeting are conclusive proof of the fact without recording the number or proportion of the votes recorded in favour of or against the motion.

MOTIONS, THE COMMISSION

8. A motion must have a mover and seconder.
- 8.1 A motion to refer a matter or question for further information or to postpone a matter for further consideration at a future Commission meeting is not debatable and, until decided, shall preclude all amendments to the main question.
- 8.2 A motion to amend must be relevant to the main motion, must not be in direct opposition to the main motion, and must be decided before another motion to amend is made.
- 8.3 Notice of Motion
- 8.3.1 Prior to the Commission entertaining a motion involving new business at a meeting of the Commission, a member wishing to do so is required to give notice of the intent to present the motion at the next or a subsequent meeting of the Commission.
- 8.3.2 The motion shall be included as an item of New Business on the agenda for the meeting specified in the notice.
- 8.3.3 Notwithstanding the above, a motion may be introduced without notice if the Commission, without debate, dispenses with the requirement of notice by the affirmative vote of two-thirds of the members present.

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- 8.4 The Commission may reconsider a motion decided at a previous meeting within one year of the decision on that motion if:
- a) advance written notice, including reasons for the reconsideration, was distributed with or prior to the notice of meeting at which the motion to reconsider is to be heard; and
 - b) the motion to reconsider is passed by the concurring votes of at least two-thirds of the members of the Commission present.

A discussion to reconsider the motion shall be permitted but there shall be no discussion of the previously decided motion prior to the passage of the motion to reconsider. The previously decided motion may then be considered as if it has not been decided.

The Commission may at any time reconsider a Commission decision related to order or procedure.

- 8.5 Resolutions of the Commission shall remain in effect unless a resolution is reconsidered by the Commission in accordance with section 8.4 or superseded at a later date by resolution of the Commission.

COMMITTEES, THE COMMISSION

9. The Commission, from time to time, may appoint Committees to assist it in doing its work. The Chair by reason of office is a member of each Committee. Committees are not final decision-making bodies. Any recommendation from a Committee shall be considered for approval at a regularly scheduled Commission meeting. All Committee meetings, including any presentation made by a delegation authorized by the Chair, shall be held in camera.

CONFLICT OF INTEREST, THE COMMISSION

10. All members of the Commission are bound by By-law No. 5, Fiduciary Responsibility and Conflict of Interest.

PROCEDURAL RULES, COMMISSION MEETINGS

11. A matter not provided for in the procedural rules contained in this by-law, by By-law No. 5 and Robert's Rules of Order shall be decided by the Chair.

REMUNERATION OF COMMISSIONERS

12. The Commissioners shall be paid the remuneration fixed by the Lieutenant Governor in Council under subsection 3(6) of the *Niagara Parks Act*.

OFFICERS OF THE COMMISSION

13. Section 4 of the *Niagara Parks Act* provides that the Commission may appoint such officers as may be required. In the exercise of this power, the Commission recognizes the Chair and Vice Chair as appointed officers of the Commission. A Chief Executive Officer and any additional officers may be appointed by resolution.

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DUTIES OF THE CHAIR****ADMINISTRATION OF AFFAIRS**

14. The Chair shall provide leadership to the Commission and shall execute the duties and responsibilities as set out in the Memorandum of Understanding between the Commission and the responsible provincial Ministry and required by all applicable directives.

DUTIES OF OTHER OFFICERS

15. The duties of all other officers of the Commission shall be such as called for by the terms of their appointments or the Commission requires of them.

EXECUTION OF DOCUMENTS

16. Subject to applicable law, deeds, licences, major contracts and engagements on behalf of the Commission shall be signed by the Chair and Chief Executive Officer or in the case of absence, illness or incapacity, the Vice Chair or the person designated in writing by the Chief Executive Officer respectively. Notwithstanding any provision to the contrary contained in the by-laws of the Commission, the Commission may at any time by resolution direct the manner in which, and the persons by whom, any particular instrument, contract or obligation of the Commission may or shall be executed.

BOOKS AND RECORDS

17. Section 17 of the *Niagara Parks Act* requires the Commission to keep necessary books in which true and regular accounts are entered.

FINANCIAL YEAR

18. The fiscal year of the Commission shall be April 1 to March 31.

BANKING

19. The banking arrangements of the Commission shall be established and amended by resolution of the Commission.

NOTICE

20. Whenever notice is required to be given under a provision of a by-law of the Commission or any applicable law, the notice may be given personally, by fax, by e-mail, by any other form of transmitted message, or by depositing it in a post office or public letter-box in a pre-paid, sealed wrapper addressed to the Commissioner or officer at the address appearing on the books of the Commission. A notice or other document sent by post shall be held to be sent at the time when the same was deposited in a post office or public letter-box, and a notice or document transmitted by fax, e-mail, or other form of transmission shall be held to be sent when transmitted. For the purpose of sending any notice, the address of a Commissioner or officer shall be the last address recorded on the books of the Commission.

**THE NIAGARA PARKS COMMISSION
BORROWING**

21. Subsection 5(1) of the *Niagara Parks Act* states: “With the approval of the Lieutenant Governor in Council, the Commission may borrow money to meet its indebtedness accruing due or for purchasing or otherwise acquiring real or personal property, or making improvements, or for any other purpose of the Commission, and may issue bonds, debentures, notes or other securities to provide for the repayment of any money so borrowed, and such securities may be payable at such times and in such manner and at such place or places in Canada or elsewhere, and may bear such interest as the Commission may consider proper.”

Subsection 5(2) of the *Niagara Parks Act* provides that “the Lieutenant Governor in Council may authorize the Minister of Finance for and on behalf of Ontario to guarantee the payment of any securities issued by the Commission for any of the purposes mentioned in subsection (1).”

SURPLUS MONEY

22. Subsection 16(2) of the *Niagara Parks Act* requires that “Any surplus money shall, on the order of the Lieutenant Governor in Council, be paid to the Minister of Finance and shall form part of the Consolidated Revenue Fund.”

AUDIT

23. Section 19 of the *Niagara Parks Act* provides: “The books and records of the Commission shall be examined annually by the Auditor General or such other auditor as may be appointed by the Commission.”

ANNUAL REPORT

24. As provided in subsection 20(1) of the *Niagara Parks Act*, “The Commission shall prepare an annual report, provide it to the Minister, and make it available to the public.”

Subsection 20(2) of the *Niagara Parks Act* provides: “The Commission shall comply with such directives as may be issued by the Management Board of Cabinet with respect to, (a) the form and content of the annual report to, (b) when to provide it to the Minister, and (c) when and how to make it available to the public.”

Section 20(3) of the *Niagara Parks Act* further provides: “The Commission shall include such additional content in the annual report as the Minister may require.”

Section 20.1 of the *Niagara Parks Act* provides that “The Minister shall table the Commission’s annual report in the Assembly and shall comply with such directives as may be issued by the Management Board of Cabinet with respect to when to table it.”

**THE NIAGARA PARKS COMMISSION
INTERPRETATION****BY-LAW NO. 6
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25. In these by-laws and in all other by-laws of the Commission made subsequently, any references to persons shall mean and include individuals, bodies corporate, cooperatives, companies, partnerships, syndicates, trusts, unincorporated organizations, entities and any number of aggregate of persons.