

BY-LAW NO. 1

being a by-law relating generally to the transaction
of the affairs of the **Newmarket Tourism Development Corporation**

BE IT ENACTED AND IT IS HEREBY ENACTED as a by-law of the **Newmarket Tourism Development Corporation** (hereinafter called the "**Corporation**") that:

APPLICABLE LAW

1. As a municipal services corporation the Corporation is subject to legislative requirements beyond those imposed on standard not-for-profit corporations. The Corporation is subject to a number of statutes and regulations, including but not limited to the *Not-for-Profit Corporations Act, 2010* (Ontario) (hereinafter referred to as the "**Act**"), the *Municipal Act, 2001* (Ontario) and the Municipal Services Corporations Regulation under the *Municipal Act, 2001* (Ontario Regulation 599/06) or any successor or replacement legislation or regulation. This by-law and the activities of the Corporation shall conform with all applicable law.

REGISTERED OFFICE

2. The registered office of the Corporation shall be in the Town of Newmarket, in the Province of Ontario, and at such place therein as the Directors may from time to time determine.

SEAL

3. The Corporation shall not have a corporate seal.

DIRECTORS

4. **Number and Quorum.** Until changed in accordance with the Act, there shall be a minimum of five (5) and a maximum of fifteen (15) Directors of the Corporation, and the initial, interim number of Directors shall be five (5) as follows:

- (a) the Mayor of the Town of Newmarket;
- (b) the Chief Administrative Officer of the Town of Newmarket; and
- (c) three (3) additional staff of the Town of Newmarket as appointed by the Chief Administrative Officer of the Town of Newmarket.

Prior to the end of the first year of operation, Council for the Corporation of the Town of Newmarket (the "**Voting Member**") will elect Directors to replace the interim, initial board of directors in accordance with Section 6 below.

A majority of Directors shall constitute a quorum for the transaction of business at any meeting of the Board of Directors. Notwithstanding vacancies in the Board of Directors, the remaining Directors may exercise all the powers of the Board of Directors so long as a quorum of the Board of Directors remains in office.

5. **Qualification.** Each Director shall be eighteen (18) or more years of age. No individual having the status of a bankrupt shall be a Director, and, if a Director takes on the status of a bankrupt, that Director thereupon ceases to be a Director. No Director shall be an individual who has been found under the *Substitute Decisions Act, 1992* (or its successor) or under the *Mental Health Act* (or its successor) to be incapable of managing property or who has been found to be incapable by any court in Canada or elsewhere.

6. **Election and Term of Office.** Council for the Corporation of the Town of Newmarket (the “**Voting Member**”) will elect Directors at an appropriate Member’s meeting, and, subject to the Act, such Directors shall hold office for a term of four years. Directors can be re-elected for additional terms by the Voting Member.

7. **Resignation.** A Director may resign the office of Director by notice in writing to the Corporation.

8. **Vacancies.** Any vacancy occurring in the Directors may be filled for the remainder of the term of such Director by the Voting Member.

9. **Removal of Directors.** The Voting Member may remove any Director before the expiration of the term of office for any reason and may fill the vacancy of a position of Director caused by any reason for the remainder of such term.

10. **Meetings of Directors.** Meetings of the Board of Directors may be held at the registered office of the Corporation, at any other place in Ontario, or by Telephonic or Electronic Means (as that term is defined in Section 48). An annual calendar of meeting dates of the Board of Directors shall be posted on the Corporation's website.

Meetings of the Board of Directors shall be regular and open (provided that such meetings may only be closed to the public if the subject matter is of the type listed in subsection 239(2) of the *Municipal Act, 2001* (Ontario) or any successor or replacement legislation).

In addition to scheduled meetings of the Board of Directors, the Chair of the Board or the Vice-Chair of the Board or any two (2) Directors may at any time call a special meeting of the Board of Directors in order to address a matter of an urgent nature. Notice of such meeting shall be delivered, conveyed by Telephonic or Electronic Means (as that term is defined in Section 48) to each Director and to the Voting Member not less than twenty-four (24) hours before the meeting is to take place or shall be mailed to each Director and to the Voting Member not less than five (5) days before the meeting is to take place.

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 any Director may ratify and approve of any or all proceedings taken or had thereat.

By invitation of the Board of Directors, if an Executive Director has been appointed to serve the Corporation, that individual may attend meetings of the Board of Directors of the Corporation, but shall not be entitled to vote.

11. **Signed By-Laws and Resolutions in Lieu of Meeting of the Board of Directors.** Any by-law or resolution signed by all the Directors is as valid and effective as if passed at a meeting of the Directors duly called, constituted and held for that purpose.

12. **Voting by Directors.** Questions which arise at any meeting of the Board of Directors shall be decided by a majority of votes, provided that certain matters on which the Board of Directors may decide may be subject to the approval of the Voting Member in accordance with the Act, this by-law, any policy adopted by the Board of Directors, the Operating Agreement or any other agreement between the Corporation and the Voting Member. In case of any equality of votes, the Chair of the meeting shall not have a second or casting vote and the motion is therefore defeated. All votes at any such meeting shall be taken in the usual way by assent or dissent. A declaration by the Chair of the meeting that a resolution has been carried and an entry to that effect in the minutes shall be *prima facie* evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against such resolution.

13. **Remuneration of Directors.** The Directors of the Corporation shall serve without remuneration, and no Director shall directly or indirectly receive any profit from the position as such, provided that a Director may be reimbursed for reasonable expenses incurred in performing their duties. A Director shall not be prohibited from receiving compensation for services provided to the Corporation in another capacity.

14. **Indemnity of Directors and Officers.**

- (a) Every Director or Officer or former Director or Officer of the Corporation or an individual who acts or acted at the Corporation's request as a director or Officer, or in a similar capacity, of another entity, shall be indemnified and saved harmless out of the Corporation's funds from and against all costs, charges and expenses, including an amount paid to settle an action or satisfy a judgment, reasonably incurred by the individual in respect of any civil, criminal, administrative, investigative or other action or proceeding in which the individual is involved because of that association with the Corporation or with such other entity.
- (b) The Corporation shall not indemnify an individual under Section 14(a) unless:
 - (i) the individual acted honestly and in good faith with a view to the Corporation's best interests or other entity for which the individual acts or acted at the Corporation's request as a director or officer, or in a similar capacity, as the case may be; and
 - (ii) if the matter is a criminal or administrative proceeding that is enforceable by a monetary penalty, the individual had reasonable grounds for believing that their conduct was lawful.
- (c) Subject to applicable laws, the Corporation may purchase and maintain insurance for the benefit of an individual referred to in Section 14(a), against any liability incurred

by that individual in the individual's capacity as a Director or an Officer of the Corporation, or, in the individual's capacity as a director or officer, or in a similar capacity, of another entity if the individual acts or acted in that capacity at the Corporation's request.

15. **Protection of Directors and Officers.** No Director or Officer 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 other act for conformity, or for any loss, damage or expense happening to the Corporation through the insufficiency or deficiency of title to any property acquired by order of the Board of Directors for or on behalf of the Corporation or for the insufficiency or deficiency of any security in or upon which any of the moneys of the Corporation shall be invested or for any loss or damage arising from the bankruptcy, insolvency or tortious act of any person, firm or corporation with whom any moneys, securities or effects of the Corporation shall be deposited, or for any loss, conversion, misapplication or misappropriation of or damage resulting from any dealings with any moneys, securities or other assets belonging to the Corporation or for any loss occasioned by any error of judgment or oversight on such person's part or for any other loss, damage or misfortune whatever which may happen in the execution of the duties of the office or in relation thereto unless the same shall happen by or through such person's own wilful neglect or default.

The Directors may rely upon the accuracy of any statement or report prepared by the Corporation's auditor and shall not be responsible or held liable for any loss or damage resulting from any actions based upon such statement or report.

16. **Business Plans and Budgets.** Subject to Section 22 and any agreement with the Voting Member, the creation and management of business plans and an annual operating budget will be the responsibility of the Board of Directors for provision to the Voting Member provided that each such budget shall be subject to the Voting Member's approval.

17. **Policies and Procedures.** Subject to Section 22 and any agreement with the Voting Member, the Board of Directors may prepare corporate policies and procedures or adopt the Voting Member's policies and procedures. If any such policies or procedures are adopted, the Corporation shall maintain a log of such policies and procedures and shall make them available to the Board of Directors, to the Voting Member and its staff, and to the public

COMMITTEES AND ADVISORS

18. **Committees.** The Board of Directors may appoint such committees as it, from time to time, considers advisable.

No committee shall have the power to act for or on behalf of the Corporation or otherwise commit or bind the Corporation to any course of action. Committees shall only have the power to make recommendations to the Board of Directors, or to Voting Member, as the Board may, from time to time, direct. Members of committees shall be appointed by, and hold office at the pleasure of the Board of Directors. Members of committees need not be members of the Board. The chair of each committee shall submit to the Board such reports as the Board may, from time to time,

request, but, in any event, each chair shall submit an annual report to the Board at such time as the Board may, from time to time, determine.

19. **Advisors.** The Board (subject to the approval of the Voting Member) or the Voting Member may from time to time appoint advisors to advise the Corporation in such positions other than as Officers, with such titles and with such powers and duties and for such terms of service, as the Board (subject to the approval of the Voting Member) or the Voting Member deems advisable.

MEMBERSHIP

20. **One Class.** There shall be one (1) class of membership, namely the Voting Member class. The Voting Member shall be the Corporation of the Town of Newmarket and upon passage of this By-Law by the initial Board of Directors, such Voting Member shall be deemed to have been issued membership by the Board of Directors as the sole Voting Member of the Corporation.

21. **Voting.** The Voting Member shall be entitled to the one (1) and only vote on each question arising at any Member's meeting.

22. **Governance Framework.** The Voting Member may establish a corporate governance framework for decision-making, strategic planning, budget and business plans, and corporate policies.

MEMBER'S MEETINGS

23. **Meetings.** The annual or any special Member's meeting shall be held at the registered office of the Corporation, any other location in Ontario, or by Telephonic or Electronic Means (as that term is defined in Section 48).

Meetings of the Members shall be regular and open (provided that such meetings may only be closed to the public if the subject matter is of the type listed in subsection 239(2) of the *Municipal Act, 2001* (Ontario) or any successor or replacement legislation).

24. **Signed Resolutions in Lieu of Member's Meetings.** Any resolution signed by the Voting Member is as valid and effective as if passed at a Member's meeting duly called, constituted and held for that purpose. The Mayor and the Clerk of the Town of Newmarket may sign any resolution on behalf of the Voting Member provided that the decision within the resolution has been adopted by Council of the Town of Newmarket at a regular Council or Committee of the Whole meeting.

25. **Agenda and Notice.** At every annual Member's meeting, in addition to any other business that may be transacted, the report of the Board of Directors, the financial statements and the report of the auditors shall be presented and a Board of Directors elected and auditors appointed for the ensuing year. The Voting Member shall have the power to call at any time a special Member's meeting.

26. **Error or Omission in Notice.** No error or omission in giving notice of any Member's meeting or any adjourned meeting, whether annual or special, shall invalidate such meeting or make void any proceedings taken thereat and the Voting Member may at any time waive notice of an such meeting and may ratify, approve and confirm any or all proceedings taken or had thereat.

27. **Adjournment.** Any Member's meetings 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 unless one (1) or more adjournments is for an aggregate of thirty (30) days or more in which case notice of continuation of the adjourned meeting shall be given in accordance with the Act . Such adjournment may be made notwithstanding that no quorum is present.

28. **Quorum and Voting.** A quorum for the transaction of business at any Member's meeting shall consist of the Voting Member. At all Member's meetings every question shall be decided by the vote of the Voting Member.

OFFICERS

29. **General.** The Officers shall be a Chair of the Board, a Vice-Chair of the Board, a Secretary and a Treasurer as appointed by the Voting Member. The Voting Member may appoint such other Officers as the Voting Member may from time to time determine. Subject to the approval of the Voting Member, the Board of Directors may fix the remuneration to be paid to Officers, agents, servants, and employees of the Corporation that are not staff to the Voting Member. Officers that are also staff to the Voting Member will not receive remuneration for their services to the Corporation.

30. **Treasurer.** The Director, Financial Services for the Town of Newmarket (or designate) shall be the Treasurer of the Corporation.

31. **Secretary.** The Clerk of the Town of Newmarket (or designate) shall be the Secretary of the Corporation.

32. **Vacancy.** A vacancy occurring from time to time in these offices may be filled by the Voting Member. One (1) person may hold more than one (1) office except that of Chair of the Board.

33. **Duties of Chair of the Board and Vice-Chair of the Board.** The Chair of the Board shall, when present, preside at all meetings of the Board of Directors. The Chair of the Board of Directors with the Secretary or other Officer appointed by the Board of Directors for the purpose, shall sign all by-laws. The Chair of the Board shall perform such other duties as may from time to time be determined by the Voting Member. During the absence or inability of the Chair of the Board, the Chair of the Board's powers and duties may be exercised by the Vice-Chair of the Board, or such other Director as the Voting Member may from time to time appoint for the purpose and if the Vice-Chair of the Board or such other Director shall exercise any such duty or power, the absence or inability of the Chair of the Board shall be presumed with reference thereto.

34. **Secretary.** The Secretary shall: give or cause to be given all notices required to be given to the Voting Member, Directors and auditors; attend all meetings of the Board of Directors and all Member's meetings (subject to the rules or determinations of the Voting Member); enter or cause to be entered in books kept for that purpose minutes of all proceedings at such meetings; be the custodian of all books, papers, records, documents and other instruments belonging to the Corporation; and perform such other duties as may from time to time be prescribed by the Voting Member.

35. **Treasurer.** The Treasurer shall keep full and accurate accounts of all receipts and disbursements of the Corporation in proper books of account and shall 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 Voting Member, shall disburse the funds of the Corporation under the direction of the Board of Directors, and shall render to the Board of Directors at the regular meetings thereof whenever required an account of all of transactions as Treasurer, and of the financial position of the Corporation and shall also perform such other duties as may from time to time be determine by the Voting Member.

36. **Duties of Chief Executive Officer.** The Chief Executive Officer (if appointed), subject to the authority of the Board of Directors and the supervision of the Chair of the Board, shall be charged with the general management and supervision of the affairs and operations of the Corporation. The Chief Executive Officer shall perform all duties incidental to the office and shall have such other powers and duties as may from time to time be assigned by the Board of Directors.

37. **Other Officers.** The duties of all other Officers shall be such as the terms of their appointment call for or the Voting Member requires of them. Any of the powers and duties of an Officer to whom an assistant has been appointed may be exercised and performed by such assistant, unless the Voting Member otherwise directs.

38. **Variation of Duties.** The Voting Member, may from time to time, vary, add to or limit the powers and duties of any Officer or Officers.

39. **Agents and Attorneys.** The Board of Directors shall have power from time to time to appoint agents or attorneys for the Corporation with such powers of management or otherwise (including the power to engage subcontractors) as may be thought fit.

40. **Term of Office.** The term of office of each Officer (other than the Treasurer and the Secretary) shall be such as the terms of their appointment provide, provided that the Voting Member may remove any Officer for any reason and elect or appoint a successor to serve for the remainder of the term.

CONFLICTS OF INTEREST – DIRECTORS, OFFICERS AND ADVISORS

41. **Interest of Directors in Contracts.**

A Director, an Officer or an advisor to the Corporation who has a real or perceived direct or indirect interest in a contract, act, transaction, or proposal with the Corporation, whether direct or indirect, shall disclose their interest to the Board.

Where a Director has disclosed a conflict of interest with the Corporation the Director shall not debate or vote on the matter that is the subject of the conflict.

Where an Officer or an advisor to the Corporation has disclosed a conflict of interest with the Corporation the Officer or an advisor to the Corporation shall not advise on the matter that is the subject of the conflict.

Subject to compliance with the law, and subject to compliance with the conflict of interest provisions in this by-law, no contract or arrangement entered into by or on behalf of the Corporation in which a Director is directly or indirectly interested shall be voided or voidable and no Director shall be liable to account to the Corporation or to its Voting Member or creditors for any profit realized from any contract or arrangement by reason of any fiduciary relationship.

Where a Director has failed to comply with the conflict of interest provisions of this by-law and where a contract or arrangement has been entered into with the Corporation, the contract may be deemed to be voided or voidable and the Director may be liable to account to the Corporation or its Voting Member or creditors for any profit realized from the contract or arrangement by reason of a fiduciary relationship.

A Director, an Officer or an advisor to the Corporation who has a real or perceived direct or indirect interest in a contract, act, transaction or proposal with the Town of Newmarket shall disclose this to the Board. When the Secretary and the Treasurer are carrying out their duties with respect to the Corporation or Town business the Secretary and/or the Treasurer shall not be deemed to have a conflict of interest.

Where a Director, an Officer or an advisor to the Corporation has disclosed a conflict of interest with the Town of Newmarket the person shall not debate, vote or advise the Corporation on the matter, nor shall the Director, an Officer or an advisor lobby, advise or make recommendations to, Town Council on the matter that is the subject of the conflict

42. The Directors and Officers of the Corporation shall be deemed to be members for the purposes of the *Municipal Conflict of Interest Act*.

AUDITOR AND AUDITS

43. **Appointment of Auditor(s).** The Auditor for the Town of Newmarket, or their designate, shall be the auditor for the Corporation, and shall have all of the rights and powers of an auditor provided under the *Municipal Act, 2001*.

44. **Audits.** The Corporation shall be subject to audit by the Voting Member's Internal Auditor (or designate), as required by the Voting Member for any purpose including to ensure that amounts paid to Corporation by the Town are used for the exclusive purpose of promoting tourism.

EXECUTION OF DOCUMENTS

45. **Execution.** Subject to the approval of the Voting member, until such time as the Voting Member approves the policy referred to in the following sentence, the Chair of the Board and Vice-Chair of the Board shall be authorized together to sign in the name and on behalf of the Corporation all instruments in writing and any instruments in writing so signed shall be binding upon the Corporation without any further authorization or formality. Subject to the approval of the Voting Member, the Board of Directors shall establish a policy regarding authority to sign in the name and on behalf of the Corporation all instruments in writing and any instruments in writing so signed shall be binding upon the Corporation without any further authorization or formality. Subject to the approval of the Voting Member, the Board of Directors shall have power from time to time to appoint any other Officer or Officers or any person or persons on behalf of the Corporation either to sign instruments in writing generally or to sign specific instruments in writing.

The term "**instruments in writing**" as used herein shall, without limiting the generality thereof, include contracts, documents, deeds, mortgages, hypothecs, charges, conveyances, transfers and assignments of property (real or personal, immovable or moveable) agreements, tenders, releases, proxies, receipts and discharges for the payment of money or other obligations, conveyances, transfers and assignments of shares, stocks, bonds, debentures and other securities and paper writings.

BANKING

46. **Accounts.** The Town Treasurer (or designate) shall open and administer a corporate bank account(s) for the Corporation, including making deposits, issuing cheques and authorizing electronic fund transfers as required and as directed by the Corporation.

47. **Signing Authority.** The Town Treasurer (or designate) and the Town Deputy Treasurer (or designate) and/or such other persons identified by the Corporation and approved by the Voting Member from time to time shall be signing officers of the Corporation with respect to banking matters.

NOTICE

48. **Notice.** Whenever under the provisions of the by-laws notice is required to be given, such notice may be given by Telephonic or Electronic Means (as defined in this provision below), addressed to the Director, Officer or member at the address, as the same appears on the books of the Corporation. A notice or other document so sent shall be deemed to be sent upon transmission. For the purpose of sending any notice, the address of any member, Director or Officer shall be the last address as recorded on the books of the Corporation.

For the purposes of this by-law, the term "**Telephonic or Electronic Means**" means any means that uses the telephone, videoconferencing or any other electronic or other technological means to transmit information or data, including telephone calls, virtual meetings, voice mail, fax, email, an automated touch-tone telephone system, computer or computer networks.

BOOKS AND RECORDS

49. **Books and Records.** The Directors shall see 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.

FISCAL YEAR

50. The fiscal year of the Corporation shall terminate on the 31st day of December in each year. The first fiscal year of the Corporation shall terminate on the 31st day of December, 2025.

DISSOLUTION

51. Upon the dissolution of the Corporation and after the payment of all debts and liabilities, the Corporation's remaining property shall be distributed, or disposed of, to the Corporation of the Town of Newmarket, as a municipal government and the Voting Member.

INTERPRETATION

52. In all of the by-laws of the Corporation where the context so requires or permits, the singular shall include the plural and the plural singular, the word "person" shall include firms and corporations, and wherever reference is made to the "Act", it shall mean "**the *Not-for-Profit Corporations Act, 2010 (Ontario)***" and every other act or statute incorporated therewith or amending the same, or any act or statute substituted therefor, and in the case of such substitution the reference in the by-laws to non-existing acts or statutes shall be read as referring to the substitute provisions in the new act or statutes.

53. This by-law may be amended only with the approval of the Voting Member and in accordance with the Act .

ENACTED this _____ day of _____, 2025.

Chair of the Board

Secretary