

Office of the Public Guardian and Trustee

Ministry of Government and Consumer Services

NOT-FOR-PROFIT INCORPORATOR'S HANDBOOK

This Handbook
has been prepared jointly by
the
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and the Office of the Public Guardian and Trustee for Ontario, Charitable Property
Program
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PART 1 ■ GENERAL INFORMATION

1.1 Introduction

The purpose of this Handbook is to provide general information on the nature of a not-for-profit corporation and guidelines on how to incorporate such a corporation. This Handbook also provides basic information on incorporating charitable corporations, which are a special type of not-for-profit corporation.

Not-for-profit corporations incorporated in Ontario are governed by the Not-for-Profit Corporations Act, 2010 (ONCA) and the Regulations made under it. Not-for-profit corporations are incorporated "as of right" under the ONCA subject to compliance with the ONCA and Regulations made under it. Certain pertinent sections to the ONCA and the Regulations are included in this Handbook. The reader is, however, referred to the ONCA and the Regulations to examine those sections not set out here.

This Handbook contains general statements concerning the requirements of the ONCA and Regulations which are intended to serve only as a general guide and not as a substitute for statute when dealing with specific problems. Also, reference to this Handbook should not be a substitute for consultation with a lawyer on legal considerations or an accountant on financial matters. The ONCA and Regulations made under it are available on the ServiceOntario e-laws website at www.ontario.ca/laws. The [Guide to the Not-for-Profit Corporations Act, 2010](#) available online also contains basic information about the ONCA.

1.2 Nature of a Corporation

In law, a corporation is an artificial person or a legal entity having an independent existence, separate and distinct from that of its members. The corporation owns property in its own name, acquires rights, obligations and liabilities, enters into contracts and agreements and has the capacity to sue and be sued as would a natural person.

Thus, for example, a corporation may be insolvent while its individual members may be wealthy. As a separate legal entity a corporation is not affected by changes in its membership and its existence continues in perpetuity unless its members or the government take steps to dissolve it.

A corporation is managed or governed by a board of directors, which is elected by the members. The board of directors, in turn, appoints officers such as president, secretary, treasurer etc. who are responsible for the actual operation of the corporation. A director shall be appointed chair of the board of directors and shall carry out the duties of the chair in accordance with the by-laws.

The directors, officers and members do not “own” the corporation, nor do they have any right of ownership to any particular asset of the corporation and the corporation may not be operated for pecuniary gain of its members, directors or officers.

The purposes of a corporation may be any non-profit purposes within the legislative authority of the Province of Ontario, subject to any restrictions in the regulations. If any of the purposes of a corporation are of a commercial nature, the articles must state that the commercial purpose is intended only to advance or support one or more of the non-profit purposes of the corporation. For example, a corporation may have a non-profit purpose of a hockey club, and an incidental commercial purpose of selling chocolate bars to raise funds, but all funds from these sales, other revenues and any “profit” must be used for the non-profit purposes of the club (i.e. to purchase new uniforms for the team).

1.3 Should you Incorporate?

The act of incorporation offers certain advantages to the incorporators and their successors but at the same time it also places certain responsibilities upon them. Accordingly, before proceeding with incorporation, the members of an unincorporated organization should give the matter serious consideration. In this regard you may wish to consult a lawyer who has experience in corporate matters and who, given all the facts, can advise you whether it would be to your advantage to incorporate.

If you need a lawyer, you may wish to contact the Law Society Referral Service (LSRS). The LSRS is a program of the Law Society of Ontario which offers up to one half-hour of free legal consultation. Information about how to be referred to a lawyer through the LSRS is available at www.lsr.info. If you would like to be referred to a lawyer, you may submit a request to the LSRS by completing the online request form at www.lawsocietyreferralservice.ca. (see Contacts - Appendix “F”).

It is not mandatory for a not-for-profit organization to incorporate. There are in existence hundreds, possibly even thousands, of unincorporated organizations in Ontario that are carrying on their activities without any hindrance. Unincorporated organizations do not have a separate legal existence apart from their members.

Advantages of Incorporation

As the corporation is a separate legal entity distinct from its members and has the capacity to own property, to sue and be sued, it affords limited liability protection to its members. This means that individual members are not personally liable in certain instances, for the corporation's debts and obligations.

The corporation is not affected by changes in its members, be it due to death or any other reason. Therefore, it is easier to enter into a number of transactions in the name of the corporation such as, banking, owning real estate or signing a lease or contract.

A majority of the members of the corporation have the power to bind the others by their acts.

Disadvantages of Incorporation

As the corporation is a creature of statute, it is subject to some supervision by the Government of Ontario and it must conduct its affairs in accordance with the applicable statutes. For example, the constitution or by-laws of the corporation, the election of directors and the calling of meetings of members are all governed by the ONCA. In addition, a corporation is required to report certain information on a regular basis to certain departments of the Government.

Failure to comply with reporting or disclosure requirements could render the corporation and its directors and officers liable to certain penalties, including the cancellation of the corporation.

1.4 Types of Corporations

Not-for-profit corporations are organizations without share capital that carry on activities without pecuniary gain. They are incorporated under the Not-for-Profit

Corporations Act or a predecessor of this Act. They are all subject to subsection 89 (1) of the ONCA, which states:

89 (1) No part of a corporation's profits or of its property or accretions to the value of the property may be distributed, directly or indirectly, to a member, a director or an officer of the corporation except in furtherance of its activities or as otherwise permitted by the Act.

It is the corporation's responsibility to ensure that it files articles and applications that conform to the requirement of the ONCA, failing which compliance action may be taken that may result in cancellation of the corporation.

Below are categories of the most common types of not-for-profit corporations:

- A. General type - this would include such corporations as ratepayers' associations, professional associations, community organizations, etc.;
- B. Sporting and athletic organizations;
- C. Service clubs such as Rotary, Lions, Kiwanis and Optimist;
- D. Charities – organizations with purposes that are exclusively charitable and fall within one of four broad categories of charity: relief of poverty; advancement of education; advancement of religion; and certain other purposes beneficial to the community in a way the law regards as charitable. (See Part 6 in this Handbook)

Charities also come within the definition of "Public Benefit Corporation" which is set out below.

Public Benefit Corporation – There are two types of public benefit corporations – a charitable corporation or a non-charitable corporation that receives more than \$10,000 or other prescribed amount in a financial year either in the form of:

- Donations or gifts from persons who are not members, directors, officers or employees of the corporation; or

- Grants or similar financial assistance from the federal government or a provincial or municipal government or an agency of any such government. For more information, see section 1 of the ONCA

A non-charitable corporation is considered to be a public benefit corporation in the next financial year after it receives the sum. For more information, see the definition of “public benefit corporation” in section 1 of the ONCA.

Special rules apply to public benefit corporations. For example, not more than one-third of the directors of a public benefit corporation may be employees of the corporation or of any of its affiliates (subsection 23 (3) of the ONCA). Please note that directors of charitable corporations are generally not permitted to be employed by the charitable corporation, with certain limited exceptions. For more information, see [Guidance on Payments to Directors & Connected Persons](#) on the Ministry of the Attorney General website. A number of other special rules apply to charitable corporations, which may enjoy certain legal and tax advantages (e.g. under the federal Income Tax Act), and are also subject to more stringent reporting requirements than a not-for-profit corporation of another type.

Charitable and non-charitable public benefit corporations are subject to different requirements in the ONCA as to when they can dispense with an audit or review engagement (see item 5.7 “Audit Provisions”).

One of the main differences between a charity and another type of not-for-profit corporation is the distribution of property on dissolution (see item 5.17).

1.5 Incorporation Process and Corporate Maintenance

If a decision is made to incorporate, you should take the following steps:

- | | |
|--------------------|---|
| FIRST STEP | Determine if the purposes of the organization will be those of a charity. If so, see Part 6 of this Handbook. |
| SECOND STEP | Select the proposed corporate name (see Part 2 of this Handbook). |
| THIRD STEP | Prepare and file the Articles of Incorporation (see Part 3 of this Handbook). |

FOURTH STEP Following the receipt of the Certificate of Incorporation accompanied with the Articles of Incorporation, organize the corporation (see Part 4 of this Handbook).

FIFTH STEP The organization of a corporation is followed by an ongoing activity of “corporate maintenance”, that is, ensuring that the corporation complies with the reporting requirements and conducts its affairs in accordance with the applicable Acts, Regulations and by-laws (see Part 5 of this Handbook).

1.6 Self-help Remedies Available under the ONCA

The ONCA does not provide the Ministry with the authority to intervene and resolve internal disputes between members and its Board of Directors. It does provide members with various self-help remedies to ensure compliance with the ONCA.

You may wish to consult private legal counsel in determining the appropriate remedies available to you. See Appendix “F” for information about the Law Society Referral Service of The Law Society of Ontario.

PART 2 ■ CORPORATE NAME

2.1 Name not to be Deceptively Similar

The ONCA (clause 11(1)(b)) provides that a corporation shall not be given a name that is the same as or similar to the name of a known corporation, trust, association, partnership sole proprietorship or individual, or the known name under which one of them carries on business or activities or identifies themselves, if the use of the proposed name would be likely to deceive. In other words, the ONCA permits the granting of a similar corporate name as long as the proposed name is not CONFUSINGLY or DECEPTIVELY SIMILAR to an existing name.

A corporation is not permitted to acquire a name identical to the name or former name of another body corporate, whether the other body corporate is in existence or not, except as set out in the Names and Filings Regulation under the ONCA (O. Reg 394/21). Under s. 11 of the Names and Filings Regulation, the name of a corporation formed by amalgamation may be identical to the name of one of its amalgamating corporations if the name is not a number name. Otherwise, under section 9 of the Names and Filings Regulation, no corporation may acquire a name identical to the name or former name of another body corporate, whether in existence or not, unless (a) the body corporate was incorporated under the laws of a jurisdiction outside Ontario and has never carried on any activities or identified itself in Ontario; or (b) at least ten years have elapsed since the body corporate was dissolved or changed its name.

2.2 Name to be Distinctive

Generally, to comply with the provisions of the ONCA, new corporate names must be “distinctive” – and this distinctiveness must survive certain media distortion as the corporation identifies itself to the various sectors of the public with which it interacts – including other corporations, its members, creditors, the general public and government agencies. In other words, a new corporate name must be such that it will not be confused with EXISTING names of corporations, trademarks or unincorporated organizations and will not MISLEAD or CONFUSE the public as to the undertaking or nature of the corporation or its relationship to other corporations.

2.3 Types of Distinctiveness

The name itself may be distinctive or may acquire its distinctiveness through long use.

Usually the most distinctive or unique names have a coined word as the distinctive element, for example:

- Zaltak Hockey Association
- 5-P Bowling Club

Unusual use or combination of generic words may produce a distinctive name, for example:

- All-That-Jazz Club
- Sorcerers Hockey Club
- Magic Eleven Soccer Club

Words that are coined using parts of other words, geographical location, numbers, initials and dictionary words make a less distinctive name, for example:

- Kenora Hockey Association
- Guelph Dance Club
- Northern Lights Skating Club

2.4 Elements of A Corporate Name

Most corporate names consist of three elements:

1. The **DISTINCTIVE** element is the main identifier of the corporate name. It may be a coined word or a dictionary word used in a fanciful sense quite different from its ordinary meaning or a geographic term. Every corporate name must have a distinctive element.
2. The **DESCRIPTIVE** element describes the nature of the main corporate undertaking. Care should be taken not to use terms that may be deceiving or misleading.

- 3. The **LEGAL** element indicates the status of the organization as an incorporated body. Either “Corporation” or “Incorporated” or “Incorporée” or their abbreviations may be used. The use of a legal element is optional.

Note: A corporation without share capital cannot have “Limited”, “Limitée” or the corresponding abbreviations as part of the name.

Examples of names:

DISTINCTIVE ELEMENT	DESCRIPTIVE ELEMENT	LEGAL ELEMENT
Canvelo	Cycling Club	Inc.
Village Green	Square Dancers	
Don Mills	Student Exchange	Corp.

2.5 Name not to be too General

The Names and Filings Regulation (section 15) provides that a corporate name shall not be too general. The reason for this prohibition is that corporate names that are too general tend to infringe on a number of existing names, are likely to contribute to confusion and unduly restrict or limit the possibility of using names in the future that otherwise would be available to the public except for the existence of the name that is too general.

A corporate name that is too general may be defined as a name that usually lacks the distinctive or descriptive element (see item 2.4).

Example A: names that are too general consist of only the descriptive and the legal elements, or only the distinctive and legal elements:

- Student Exchange Corporation (lacks the distinctive element)
- Canvelo Inc. (lacks the descriptive element)
- Jazz Singers Friendship Society (lacks the distinctive element)

Example B: a general name can be rectified by adding the missing distinctive or

descriptive element:

- Don Mills Student Exchange Corporation (distinctive element added)
- Canvelo Cycling Club Inc. (descriptive element added)
- Soundville Jazz Singers Friendship Society (distinctive element added)

2.6 Name not to Suggest Connection with the Crown

The Names and Filings Regulation (paragraph 12 of section 2) provides that a corporation shall not be given a name that suggests or implies connection with the Crown or the Royal Family.

The written consent of the Governor General (see Contacts – Appendix “F”), on advice from the federal Department of Canadian Heritage, has to be obtained by the applicant where the word “Royal” is used as a prefix in a corporate name and where it suggests Royal Patronage. The onus is on the applicant to obtain such consent.

Example A: corporation names that **suggest** Royal Patronage and **need the consent** of the Governor General:

- The Royal Agricultural Winter Fair
- The Royal Canadian Yacht Club
- The Prince Charles Youth Foundation

Example B: corporation names where “Royal” is used as a descriptive adjective in the use of “majestic” or “grand” and Royal Patronage is **not** suggested and therefore the consent of the Governor General, is **not required**:

- Royal Wave Surfing Association
- Royal Mountain Ski Club

2.7 Name not to Suggest Connection with Government

The Names and Filings Regulation (paragraph 12 of section 2) provides that a corporation shall not be given a name that suggests or implies connection with the Government of Canada, a municipality, any province or territory of Canada or any department, Ministry, branch, bureau, service, board, agency, commission or activity of any such government or municipality without the written consent of the

appropriate authority. In this connection particular attention should be given to the use of the words "Canada" and "Ontario". Federal Government departments are using names such as "Canada Revenue Agency", "Innovation, Science and Economic Development Canada" and care should be taken with proposed corporate names using this style.

Example A: names that **suggest** or **imply** government connection:

- Heritage Ontario
- Multi-Culture Canada
- Metro Toronto Sports and Recreation Authority

Example B: names implying government connection may be modified by rearranging and adding words thus eliminating the suggested government connection:

- Heritage Association of Kingston, Ontario
- Canadian Multi-Cultural Society of Timmins
- Sports and Recreation Association of Metro Toronto

2.8 Use of the Name of Another Province

Certain other provinces restrict the use of the name of their province in a corporate name. Accordingly, where it is desired to use the name of another province in a proposed corporate name, the incorporators should first contact the Director, Corporations Branch or Registrar of Companies, as the case may be, of the province in question to ensure the name will be acceptable. A name is not permitted that suggests or implies a connection with the Government of Canada, a municipality, any province or territory of Canada or any department, Ministry, branch, bureau, service, board, agency, commission or activity of any such government or municipality, without the written consent of the appropriate authority.

2.9 Languages Permitted in the Corporate Name

In Ontario the name for a not-for-profit corporation may have a name be English form only, French form only, one name that is a combination of English and French or one name in English and one name in French that are equivalent but are used separately. Only letters from the Roman alphabet or Arabic numerals or a

combination of them, together with such punctuation marks and other marks as are permitted by the Names and Filings Regulation (section 18) may form part of the name of a corporation. The name must comply with the requirements set out in the ONCA and its Regulations.

The ONCA (subsection 11(6)) provides that a not-for-profit corporation may use its corporate name in the form and language as permitted by its articles. In other words, an exact translation of the corporate name into another language may be used. This is permitted, provided that such form and such language are clearly set out in the special provision.

2.10 Prohibited Words / Expressions

The Names and Filings Regulation prohibits the use of some words and expressions and restricts the use of others. Here is a summary of such prohibitions and restrictions:

Section 2

The following words and expressions shall not be used in a corporate name:

1. "Amalgamated", "fusionné" or any other related word or expression, unless the corporation is an amalgamated corporation resulting from the amalgamation of two or more corporations.
2. "College", "collège", "institute", "institut", "university" or "université", if the word would lead to the inference that the corporation is a university, college of applied arts and technology or other post-secondary educational institution, except with the written consent of the Minister of Colleges and Universities or such other member of the Executive Council as may be assigned the administration of the Ministry of Training, Colleges and Universities Act under the Executive Council Act (see Contacts – Appendix "F").
3. "Engineer", "ingénieur", "engineering", "génie" or "ingénierie" or any variation of those words, if the word suggests the practice of the profession, except with the written consent of the Association of Professional Engineers of Ontario (see Contacts – Appendix "F").

4. "Condominium", "condominial" or any abbreviation or derivation of those words, if the word would lead to the inference that the corporation is a condominium corporation created or continued under the Condominium Act, 1998.
5. "Co-operative, "coopérative" or any abbreviation or derivation of those words.
6. Digits or words that would lead to the inference that the name is a number name.
7. "Foundation" or "fondation", if the word suggests that the corporation is a charity, except with the written consent of the Public Guardian and Trustee.
8. "Charity", "organisme de bienfaisance", "charitable", "caritative" or any variation of those words, except with the written consent of the Public Guardian and Trustee.
9. "United Nations", "Nations Unies" or any abbreviation or derivation of those words, if the word suggests a relationship with the United Nations.
10. "Royal", where used as an adjective, except with the written consent of the Crown, obtained through the Government of Canada (see item 2.6).
11. Numerals indicating the year of incorporation, unless section 12 applies or it is the year of amalgamation of the corporation.
12. Any word or expression that suggests that a corporation is connected with the Crown, any member of the Royal Family, the Government of Canada, a municipality, any province or territory of Canada or any department, Ministry, branch, bureau, service, board, agency, commission or activity of any such government or municipality, except with the written consent of the appropriate authority.

13. Any word or expression that suggests that a corporation is sponsored or controlled by or is associated or affiliated with a university or an association of accountants, architects, engineers, lawyers, physicians, surgeons or any other professional association recognized by the laws of Canada or a province or territory of Canada, except with the written consent of the university or professional association.
14. Any word or expression that would lead to the inference that the corporation is not a not-for-profit corporation to which the Act applies.
15. Any word or expression that suggests that a corporation is connected with a political party or leader of a political party.
16. Any word or expression in any language that is obscene or connotes an activity that is scandalous, obscene or immoral or that is otherwise objectionable on any public grounds.
17. Any word or expression that describes in a misleading manner the activities or services in association with which the corporate name is proposed to be used.
18. Any word, expression or abbreviation, the use of which is prohibited or restricted under an Act or regulation of Canada or a province or territory of Canada, unless the restriction is satisfied.

Subsection 5 (1)

A corporate name shall not contain a word or expression, an element of which is the full name of an individual or the family name of an individual, whether or not preceded by his or her given name or initials, unless the individual or his or her heir, executor, administrator, assign or guardian consents in writing to the use of the name and the individual has, had or will have a personal or other material connection to the corporation. Certain limited exceptions are set out in subsections 5 (2) and (3).

Section 19

The name of a corporation shall not exceed 120 characters in length, including punctuation marks and spaces.

2.11 Choosing the Corporate Name

When choosing the corporate name, consider the many and varied situations in which the corporate name will be used. For example, the name may be used visually (on stationery, signs, uniforms, cheques, correspondence, newsprint, advertising, etc.) and auditorially (telephone, radio, television). In each of these uses it would be to the advantage of the corporation to have a name that is memorable. To this end, the name should be distinctive and short.

Usually, a coined word or a dictionary word used in a fanciful sense quite different from its ordinary meaning can make a corporate name that is both distinctive and memorable. For example, "Canvelo Cycle Club" (for a cycling club) and "Magic Eleven Soccer Club" are likely to be memorable names that are easy to use visually and auditorially. As a rule of thumb, avoid using long, cumbersome names such as "Chirpsqueak Society of Friends of Non-Migratory Song Birds of South-Western Ontario".

Using your imagination in coining the distinctive element and carefully searching the proposed corporate name will, in the long run, save you time and money.

Accordingly, when your group decides to incorporate, the following steps are recommended for choosing a corporate name:

1. Get your group together for a "brainstorming" session to come up with a word or words that would make the proposed name unique. A coined word usually is very effective. Try to have a least three choices.
2. Check section 11 of the ONCA and the Names and Filings Regulation to ensure that the proposed name does not conflict with the ONCA or the Regulations. The Regulations prohibit the use of certain words and expressions and restrict the use of others. The ONCA and the Regulations are available on the ServiceOntario e-laws website at www.ontario.ca/laws.

3. After the initial choice has been made, check the proposed name against the names listed in the telephone directories, municipal directories, hobby or sports magazines, etc. Many of these publications should be available in your local public library or on the Internet. If your proposed name is confusingly similar to the name of an existing organization or corporation then abandon it and go to your second choice, third choice and so on, and if necessary, back to some more "brainstorming".
4. If the proposed corporate name will require consent from an individual or an existing organization, the applicants should obtain written consent before ordering a name search. For example, where the proposed corporation is to be affiliated with an existing corporation with a similar name, the applicants should contact the existing corporation to ensure the organization will provide written consent. See item 2.10 for examples of when consent is required.

2.12 Checklist

You may save time and expense by checking the proposed name against this checklist. Remember, Search Houses charge a fee for each search of a proposed name. Accordingly, before requesting the required Ontario-biased or weighted Nuans name search report, use this check-list to satisfy yourself that the name you have chosen does not conflict with the ONCA and Regulations.

Is the proposed name:

- 1. PROHIBITED BY THE ONCA OR REGULATIONS?**
Section 11 of the ONCA and sections, 2, 3, 5, 6, and 7 of the Names and Filings Regulation.
- 2. DISTINCTIVE?**
 - (a) Too general?**
Section 15 of the Names and Filings Regulation
Items 2.4, 2.5 of this Handbook
 - (b) Only descriptive?**
Section 15 of the Names and Filings Regulation

Item 2.4 of this Handbook

- (c) Primarily only name or surname?
Sections 5 and 15 of the Names and Filings Regulation
- (d) Primarily or only geographic name?
Section 15 of the Names and Filings Regulation

3. MISLEADING?

Section 2, Paragraph 17 of the Names and Filings Regulation

4. DECEPTIVE / CONFUSING?

Section 11 of the ONCA and section 7 of the Names and Filings Regulation

Conduct searches for identical or deceptively similar names. Consider degree of similarity of:

- appearance
- sound
- meaning

2.13 The Corporate Name Search Report

If the proposed name does not appear to be deceptively/confusingly similar to the name of an existing organization or corporation, and does not appear otherwise to contravene the ONCA or the Regulations, then you should contact a Search House in order to obtain an Ontario-biased or weighted Nuans name search report for the proposed name of the corporation (see Appendix "F", Search Houses).

2.14 Warning - use of the Proposed Name

Do not complete the Articles of Incorporation until you receive the name search report. The corporation must file the reference number of the Nuans report, the date of the report, and the proposed name searched together with the Articles of Incorporation. The name search report cannot be dated more than 90 days prior to the filing of the articles. For example, articles received by the Ministry on November 28th could be supported by an Ontario-biased or weighted name search report dated as early as August 30th, but not dated earlier. **Do not** print any stationery, or order a corporate seal or enter into any transactions using the corporate name until

the Certificate of Incorporation accompanied with the Articles of Incorporation are issued.

PART 3 ■ INCORPORATION

3.1 Pre-incorporation Considerations

At this point, you should consider whether the activities or undertaking of the proposed corporation may come under the supervision or regulation of or be of interest to a Ministry or an Agency of the Government. In particular:

- Will the corporation seek financial assistance from the Government?
- Are the proposed activities of the corporation regulated by a Ministry or Agency of the Government?
- Will the corporation engage in activities that would supplement services provided by a Ministry or Agency of the Government?

If the answer to any one of the above questions is “yes”, then it may be wise to consult the appropriate Ministry or Agency prior to completing the application. Some Ministries or Agencies may require that you contact them prior to incorporation, and some may also offer suggestions for drafting purposes for the proposed corporation.

Such consultation with the regulating bodies may, in the long run, save you time, inconvenience and expense.

For example:

- if the corporation is to operate a nursery school, home for children or a day care service, you should consult the Ministry of Children, Community and Social Services;
- if the corporation is to operate a long term care home or a retirement home, you should consult the Ministry of Long-Term Care, Ministry of Children, Community and Social Services, and the Ministry of Municipal Affairs and Housing;
- if the corporation is to provide cultural or citizenship programs you should consult the Ministry of Citizenship and Multiculturalism and the Ministry of Heritage, Sport, Tourism and Culture Industries;
- if the corporation is to provide education or training programs you should consult the Ministry of Education and the Ministry of Colleges and Universities;

- if the corporation is to be a charity, you should consult the Office of the Public Guardian and Trustee (Ontario) and Canada Revenue Agency, Taxation; (see Part 6 of this Handbook)
- if the corporation is to provide health care services or to engage in related activities or if the corporation is to be an association of health care professionals, you should consult the Ministry of Health;
- if the corporation is to provide prisoner rehabilitation services you should consult the Ministry of the Solicitor General.

Note: This is not an exhaustive list of instances where other Ministries are to be consulted.

3.2 How to Apply - Articles of Incorporation - General Comments

Articles of Incorporation may be filed online using ServiceOntario's website at www.Ontario.ca/businessregistry or by mail in the [form](#) approved by the Director under the ONCA on the Ontario [Central Forms Repository](#). Also see the [Notice – ONCA – Incorporating a Not-for-Profit Corporation](#).

3.3 Registered Office

Every corporation is required to have a registered office in Ontario (section 14 of the ONCA). This does not necessarily mean that a corporation must own or lease a separate building or a suite of offices. The intention of the ONCA is to have an address formally designated as the registered office of the corporation where certain records are kept and where the corporation may be reached by an interested party. Some incorporators use their home address for this purpose and accordingly that address is set out in Item 2 of the Articles of Incorporation.

3.4 Directors

The first directors, not fewer than three (section 22 of the ONCA) individuals named as directors in the articles of incorporation, are the directors of the corporation until replaced by other individuals duly elected in their stead (section 24 of the ONCA). The first directors of the corporation have all the powers, duties and liabilities of directors that are elected to the board.

The office of director places on that person responsibilities and even liabilities.

Accordingly, any person accepting a directorship should be prepared to assume the responsibilities that go with the director's office. Directors and officers in exercising their powers and discharging their duties to the corporation have a duty to act honestly and in good faith with a view to the best interests of the corporation. They must exercise the care, diligence and skill that a reasonably prudent person would exercise in comparable circumstances (section 43 of the ONCA).

A director of a corporation is not required to be a member of the corporation unless the by-laws provide otherwise.

3.5 Purposes - General

Definition of Purposes

Purposes are concise statements of the general purposes of the corporation.

Content of Purposes - See Part 6 for Charitable Purposes

The purposes should not be an enumeration of the proposed activities and/or the aims of the corporation. It is advisable to keep the purpose statement short but broad in nature (except for charities, see Part 6 of this Handbook), since a general purpose will include the particulars normally included in that sort of undertaking. On the other hand, the purposes should be sufficiently specific so as to avoid ambiguity.

Examples: the purposes for a community youth organization might be drafted as follows:

The establishment and operation of a youth organization for the purpose of:

- a) promoting the best interests of teenagers in the Town of Kenora;
- b) promoting interest in athletics, sports and recreation and establishing and maintaining facilities and equipment for same.

and other complementary purposes not inconsistent with these purposes.

The purposes of a ratepayers' association might be drafted as follows:

The establishment and operation of a residents' association for the purpose of

- a) promoting the interests of the residents of the community of Central Don Mills;
- b) carrying on research into problems connected with development of real property in the community.

SEE APPENDIX "A" Draft Standard Clauses for non-profit, non-charitable, corporations under Part III of the ONCA.

Note: The Articles of Incorporation under which the purposes are set out (i.e. "The purposes of the corporation are:") must contain purposes only and **not** special provisions such as restrictions on powers.

3.6 Purposes - Charities

See Part 6 of this Handbook.

3.7 Natural Person Powers

All not-for-profit corporations have the capacity, and subject to the ONCA, the rights, powers and privileges of a natural person (section 15 of the ONCA). This ensures corporations have all the necessary powers to fulfill their purposes. Any powers to be restricted pursuant to section 16 of the ONCA should be specified in article 6 of the application under Special Provisions. Not-for-profit corporations may also sell, lease, exchange or dispose of the undertaking of the corporation or any part of such undertaking, if authorized by the members in accordance with section 118 of the ONCA.

3.8 Pre-incorporation Contracts

Within a reasonable time after it comes into existence, a corporation may adopt a contract made in its name or on its behalf before it came into existence. Upon its adoption, the corporation is bound by the contract and is entitled to the benefits under the contract as if the corporation had been in existence at the date of the contract and had been a party to it; and a person who acted in the name of or on behalf of the corporation ceases to be bound by or entitled to the benefits under the contract (section 20 of the ONCA).

3.9 Special Provisions

The applicants may ask to have embodied in the Articles of Incorporation any provision that may be made the subject of a by-law of the corporation. The only provision that must appear in the Articles of Incorporation of a corporation that is not a charity is the ONCA non-profit clause, which will appear in the articles automatically.

Commercial purposes, if any, included in the articles are intended only to advance or support one or more of the non-profit purposes of the corporation. No part of a corporation's profits or of its property or accretions to the value of the property may be distributed, directly or indirectly, to a member, a director or an officer of the corporation except in furtherance of its activities or as otherwise permitted by the ONCA.

Some items that may be included in the special provisions section are:

- (i) Borrowing powers (see wording in section 85 of the ONCA)
- (ii) Distribution of assets
- (iii) Director's remuneration (with the exception of charitable corporations)
- (iv) Membership qualification
- (v) French or foreign version of name
- (vi) Restrictions on powers

In many cases it is sufficient to set out the special provisions in the by-laws rather than in the Articles of Incorporation as provisions included in the Articles of Incorporation cannot be changed without filing Articles of Amendment. Under the ONCA, the following provisions must be set out in the Articles, not the by-laws:

1. A provision respecting the number of directors of the corporation.
2. A provision providing for two or more classes or groups of members.
3. A provision respecting voting rights of members.
4. A provision respecting delegates made pursuant to section 130 of the *Corporations Act*.
5. A provision respecting the distribution of the remaining property of a corporation that is not a public benefit corporation on winding up or dissolution.

Note that subsection 207 (3) of the ONCA preserves the validity of a provision

contained in a corporation's by-laws or a special resolution that was valid before October 19, 2021 when the ONCA came into force if the provision is not removed or added to the articles to bring them into conformity with the ONCA.

3.10 Purposes and Special Provisions – Key Points

The 'purposes' in the Articles of Incorporation set out the purposes of the corporation, and the 'special provisions' deal with matters of corporate governance. The only special provision required in your articles for non-charitable corporations is a "non-profit" clause noted in item 3.9.

Several special provisions are required for charitable corporations – see Appendix D. All special provisions must fall within the scope of the ONCA.

3.11 Supporting Documents

Under certain circumstances articles of incorporation may require supporting documents under the Names and Filings Regulation. For example, the proposed name of the corporation may require the consent of the Public Guardian and Trustee or another Ministry. Check the applicable [Notice of Filing Requirements](#) for the required supporting documents for each transaction.

The corporation is responsible for obtaining all necessary supporting documents and consents, and filing or retaining them as required under the Regulation. See the applicable Notice of Filing Requirements for more information.

3.12 Checklist

Be sure to review the Notice – ONCA – Incorporating a Not-for-Profit Corporation. This notice contains details you need to know before incorporating. For example, it explains requirements for:

- how to file articles online or by mail
- the NUANS search report
- other supporting documents
- consents you may need, e.g. for the name
- types of payment

When you incorporate, a company key will be sent to the official corporation email

address provided. The company key is needed for future filings (see [Notice – Company Key](#))

3.13 Timing

Articles of Incorporation filed online will be processed immediately and do not require Public Guardian and Trustee review. The Certificate of Incorporation will bear the effective date as of the date the Director receives the articles unless you request a future date up to 30 days ahead.

Articles of Incorporation in paper format sent by mail are usually processed within approximately 6 to 8 weeks of receipt in the Ministry. The Certificate of Incorporation will bear the effective date as of the date of delivery unless a future date is requested or the articles are returned for revision, in which case the Certificate of Incorporation will bear an effective date as of the date of redelivery to ServiceOntario, provided the articles do not require further revision.

PART 4 ■ ORGANIZATION AND START UP

4.1 Organization and Start Up

Once the corporation has received its Certificate of Incorporation, a number of essential steps are required to be initiated so that the directors may properly administer the affairs of the corporation. Among these steps are:

- establishing directors' quorum
- adoption of by-laws
- banking and financial arrangements
- appointment of auditors
- appointment of officers

If the directors do not pass an organizational by-law within 60 days after the date of incorporation, the corporation is deemed to have passed the standard organizational by-laws approved by the Ministry. If a corporation is deemed to have passed the standard organizational by-laws, it may amend or repeal and replace them at any time. See the [standard organizational by-law](#) on the [Ministry website](#).

It is advisable to retain the services of a lawyer who specializes in corporation law to ensure the corporation is properly organized and the directors understand their responsibilities. By having the corporation properly organized, you should eliminate a number of potentially serious problems in the future.

You should refer to the:

- Not-for-Profit Corporations Act, 2010
- Corporations Information Act

The above Acts are available on the ServiceOntario e-laws website at www.ontario.ca/laws.

In addition, detailed procedural information and precedents may be found in the:

- Ontario Corporate Law & Practice;
- Ontario Corporations Law Guide; and
- Canadian Corporate Secretary's Guide

These are private publications and may be available online by subscription or in some public libraries.

PART 5 ■ CORPORATE MAINTENANCE AND FILING REQUIREMENTS

5.1 Annual Meeting

The directors of a corporation must call an annual meeting of the members of the corporation within 18 months after the corporation comes into existence, and subsequently, not later than 15 months after holding the preceding annual meeting (section 52 of the ONCA).

5.2 Election of Directors and Officers

Usually the directors are elected by the members of the corporation at the annual meeting of the members. A director not elected for an expressly stated term ceases to hold office at the close of the next annual meeting of the members (subsections 24 (1) and (4) of the ONCA).

Generally directors are elected by members, and officers are appointed by the board of directors.

There are two exceptions:

- directors by virtue of their office (ex-officio directors) (subsection 23(4) of the ONCA)
- appointment of additional directors by directors (subsection 24(7) of the ONCA)

5.3 Quorum for Meetings

The quorum for meetings of directors is a majority, unless otherwise provided for in the articles or by-laws (section 34(2) of the ONCA).

5.4 Reporting Requirements

Initial Return

Within 60 days after the date of incorporation, amalgamation or continuation, the corporation is required to file an **Initial Return** (see section 2 of the Corporations Information Act) setting out the prescribed corporate information (e.g. registered office address, director information and five most senior officers' information) with

ServiceOntario. Filings may be made online directly with ServiceOntario or through a service provider at www.ontario.ca/businessregistry or by mail using the approved forms available on the ServiceOntario Central Forms Repository website at www.ontario.ca. See [Notice – CIA – Filing an Initial Return and Notice of Change – Ontario Corporations](#).

Notice of Change

Subsequently, if there is any change to the information filed with the Ministry of Government and Consumer Services, such as a change in the Board of Directors or the corporation's registered office address, the corporation must file a Notice of Change (section 4 of the Corporations Information Act) within 15 days after the change takes place.

Currently, there is no fee for filing the Initial Return or Notice of Change, with the ServiceOntario. Filings may be made online directly with ServiceOntario or through a service provider at www.ontario.ca/businessregistry or by mail using the approved forms available on the ServiceOntario Central Forms Repository website at www.ontario.ca. See Notice – CIA – Filing an Initial Return and Notice of Change – Ontario Corporations.

Corporations Information Act - Annual Return Filings for Corporations

Filings may be made online directly with ServiceOntario or through a service provider at www.ontario.ca/businessregistry or by mail using the approved forms available on the ServiceOntario Central Forms Repository website at www.ontario.ca. See Notice – CIA – Filing an Annual Return.

5.5 Penalties for Failure to Comply with Filing Requirements

The importance of submitting these filings cannot be over-emphasized. Failure to comply may lead to cancellation of the Certificate of Incorporation and dissolution of the corporation (section 170 of the ONCA). Penalties are provided in the Corporations Information Act for individuals (up to \$2,000) and for corporations (up to \$25,000) for false or misleading statements (section 13 of the Corporations Information Act). Also, a corporation that is in default of the reporting requirements is not capable of maintaining an action in any court in Ontario in respect of business carried on by the corporation except with leave of the court (section 18 of the

Corporations Information Act).

5.6 Additional Reporting Requirements

Where a corporation is regulated or funded by a Ministry or Agency of the Government, it may be required to comply with other reporting requirements in addition to those contained in the Handbook.

5.7 Audit Provisions

A corporation's financial statements for each financial year must be audited unless the following rules, which permit an audit exemption or a review engagement in place of an audit, are followed:

Members of a public benefit corporation with annual revenue of more than \$100,000 but less than \$500,000 can waive the audit requirement in respect of a financial year, but the corporation still needs to conduct a review engagement (a lesser form of financial review). If a public benefit corporation has annual revenue of \$500,000 or more, an audit is mandatory. If a public benefit corporation has annual revenue of \$100,000 or less, the members can waive both the audit and the review engagement for that financial year (subsection 76(1) of the ONCA).

If a corporation is not a public benefit corporation and has annual revenue of more than \$500,000, its members can waive the requirement for a financial year to have an audit but it must conduct a review engagement. If this type of corporation has annual revenue of \$500,000 or less, its members can waive both an audit and a review engagement (subsection 76 (2) of the ONCA).

The members can approve one of these audit exemptions at the annual meeting by passing an extraordinary resolution (at least eighty per cent approval). Please note that different amounts may be prescribed by regulation for the dollar figures cited in the above paragraphs.

5.8 Record Keeping Requirements

Under the ONCA a not-for-profit corporation is required to keep records, including:

- the corporation's articles and by-laws, and amendments to them (clause 92(1)(a))

- the minutes of meetings of the members and any committee of members, (section 92(1)(b))
- the resolutions of the members and of any committee of members (clause 92(1)(c))
- the minutes of meetings of the directors and of any committee of directors (clause 92(1)(d))
- the resolutions of the directors and of any committee of directors (clause 92(1)(e))
- a register of directors (clause 92(1)(f))
- a register of officers (clause 92(1)(g))
- a register of members (clause 92(1)(h))
- accounting records adequate to enable the directors to ascertain the financial position of the corporation with reasonable accuracy on a quarterly basis (clause 92(1)(i))
- a register of the corporation's ownership interest in land complying with section 92.1 (clause 92(1)(j))**

**The requirement for a corporation to keep a registry of a corporation's ownership interest took effect on December 10, 2016. For a corporation that was incorporated or continued under the Corporations Act before December 10, 2016, this requirement applies to the corporation on or after December 10, 2018. For a corporation incorporated or continued under the Corporations Act or the ONCA on or after December 10, 2016, this requirement applies on and after the day the corporation is incorporated or continued. The registry requirement is in respect of the corporation's ownership interest on and after the day the requirement starts to apply to the corporation.

5.9 Use of Corporate Name

The name of a corporation is set out in the instrument of incorporation (Certificate of Incorporation) or if subsequently changed, in the instrument of amendment (Certificate of Amendment) and that is the name that the corporation must use (for exception see paragraph 5.11) in all transactions.

5.10 Changing Corporate Name

A corporation may apply for Articles of Amendment to change its corporate name (see sections 103 to 106 of the ONCA and subsection 11 (2) and section 25 of the

Names and Filings Regulation).

5.11 Use of a Name Other than Corporate Name

A corporation may use a name other than its corporate name. For example, a corporation called Federation of Ontario Moose Callers may carry on its undertaking under the business or operating name “Ontario Moose Callers”.

However, **NO** corporation is permitted to carry on business in Ontario **or** identify itself to the Ontario public by a name other than its corporate name unless the business name is first registered with ServiceOntario (section 2(1) of the Business Names Act). Business or operating names may be registered online directly with ServiceOntario or through a service provider at www.ontario.ca/businessregistry or by mail using the approved forms available on the ServiceOntario Central Forms Repository website at www.ontario.ca. See [Notice – BNA – Registering a Business Name](#).

A corporation that has registered and uses a business or operating name other than its corporate name is required to set out both its registered name and its corporate name on all contracts, invoices, negotiable instruments and orders for goods and services issued or made by the corporation (subsection 2 (6) of the Business Names Act).

5.12 Changing the Authorized Number of Directors

The number of directors of a corporation is established at the time of incorporation, being the number of first directors named in the Certificate of Incorporation.

A corporation must have at least three directors. If the articles provide for a minimum and maximum number of directors, the number of directors is determined by special resolution or by the directors if authorized by special resolution (section 22 of the ONCA).

A corporation may amend its articles by special resolution to increase or decrease the number of its directors or the minimum or maximum number of directors (section 30 (1) of the ONCA).

“Special Resolution” (subsection 1 (1)) means a resolution that:

- a) is submitted to a special meeting of the members of a corporation duly called for the purpose of considering the resolution and passed at the meeting, with or without amendment, by at least two-thirds of the votes cast, or
- b) consented to by each member of the corporation entitled to vote at a meeting of the members of the corporation or the member's attorney;

A Notice of Change under the Corporations Information Act must be filed with ServiceOntario within 15 days of any change to the directors of the corporation (see part 5.4 "Reporting Requirements").

5.13 Changing the Location of the Registered Office

The location of the registered office is specified in the Articles of Incorporation. However, a corporation may by resolution of the directors change the location of its registered office within a municipality or geographic township (subsection 14(3) of the ONCA).

A corporation may change the municipality or geographic township in which its registered office is located to another place in Ontario by special resolution (see reference to "Special Resolution" in item 5.12).

A Notice of Change under the Corporations Information Act must be filed with ServiceOntario within 15 days of a change to the registered office of the corporation (see item 5.4 "Reporting Requirements").

5.14 Changing the Purposes and Special Provisions

A corporation may file Articles of Amendment to change all or any of its purposes and/or special provisions set out in the Articles of Incorporation (see section 103 of the ONCA and section 27 of the Names and Filings Regulations).

If the corporation is, or after endorsement of Articles of Amendment, would be funded, supervised, etc. by a Government Agency or Ministry, it is wise to consult with the funding or supervising Agency or Ministry prior to filing the Articles of Amendment.

Articles to change the purposes of Non-Profit Charitable Corporations must contain

the statement required by subsection 24(1) of the Names and Filings Regulation (see item 6.3.1) if the corporation has not obtained the written consent to omit it from the Public Guardian and Trustee under section 27 of the Regulation.

The Articles of Amendment may be filed online using ServiceOntario's website at www.ontario.ca or by mail in the [form](#) approved by the Director under the ONCA available on the ServiceOntario web site at www.ontario.ca. Also see the [Notice – ONCA – Filing Articles of Amendment](#).

Detailed instructions for filing are not repeated in the Handbook. The information in this Handbook is more general and is intended to clarify and supplement the instructions that are supplied by the Notices of Filing Requirements.

5.15 Income Tax Act (Canada) Considerations

A charity or not-for-profit corporation may be exempt from federal income tax either as a “non-profit organization” as described in paragraph 149(1)(l) of the federal Income Tax Act, or if registered as a charity within the meaning of section 149.1.

Although an organization may not qualify for charitable status, the non-profit-non-charitable designation may still be advantageous from a federal income tax point of view. For more information visit the Canada Revenue Agency website at: www.cra-arc.gc.ca.

5.16 Ontario Corporations Tax Requirements

Corporations, whether share or non-share, which are exempt from both income tax and capital tax, are not required to file annual Ontario Corporations Tax Returns (CT-23) with the Ontario Ministry of Finance.

Exempt corporations are defined for income tax purposes under section 57 of the Corporations Tax Act and for capital tax purposes under section 71 of that Act. The Corporations Tax Act is available on the ServiceOntario e-laws website at www.ontario.ca/laws.

5.17 Dissolution - Articles of Dissolution

Where a corporation no longer serves the purpose for which it was incorporated or

where the members have lost interest in the corporation, the directors should consider terminating the existence of the corporation. To voluntarily dissolve a non-profit corporation pursuant to section 166 of the ONCA, Articles of Dissolution must be completed and file with ServiceOntario. Articles of Dissolution may be filed online or by mail. For information on filing requirements, see [Notice – ONCA – Filing Articles of Dissolution](#). Charitable corporations may also require written consent of the Public Guardian and Trustee where the articles where the Public Guardian and Trustee has notified the Director that consent is required under section 26 of the Names and Filings Regulation under the ONCA. If the Public Guardian and Trustee's written consent is required, the Public Guardian and Trustee may be contacted at (416) 326-1963 or PGT-Charities@ontario.ca. The Public Guardian and Trustee's written consent should be obtained prior to filing articles.

Detailed instructions for filing Articles of Dissolution are not repeated in the Handbook. The information in this Handbook is more general and is intended to clarify and supplement the instructions that are supplied with the application forms.

It is important to note the differences in the requirements for the distribution of property upon dissolution for the different types of not-for profit corporations: charities, non-charitable public benefit corporations and not-for-profit corporations that are not public benefit corporations.

Dissolution Clause – General

Articles of Incorporation generally set out what will happen to the property of the corporation if the corporation ceases to exist. In respect of the distribution of property, section 167 of the ONCA requires the articles of dissolution to confirm that, after satisfying the interests of its creditors in all its debts, obligations and liabilities, if any,

- If it is a charitable corporation, it has no property to distribute or has distributed its remaining property in accordance with its articles to a Canadian body corporate that is a registered charity under the Income Tax Act (Canada) with similar purposes to its own, the Crown in right of Ontario, the Crown in right of Canada, an agent of either of those Crowns or a municipality in Canada.
- If it is a non-charitable public benefit corporation, it has no property to distribute or has distributed its remaining property in accordance with its

articles to another public benefit corporation with similar purposes to its own, a Canadian body corporate that is a registered charity under the Income Tax Act (Canada) with similar purposes to its own, the Crown in right of Ontario, the Crown in right of Canada, an agent of either of those Crowns or a municipality in Canada.

- If it is a not-for-profit corporation which is not a public benefit corporation, it has no property to distribute among its members, it has distributed its remaining property in accordance with its articles, or, if there is no provision in its articles for distribution of property, it has distributed its remaining property rateably to its members according to their rights and interests in the corporation.

These are referred to as a “dissolution clause.” If the Articles of a public benefit corporation do not have a dissolution clause, the deeming provisions of subsections 167 (5.1) and (5.2) of the ONCA apply to deem the corporation to have amended its articles to add provisions requiring distribution of remaining property in accordance with the ONCA. If the Articles of a corporation that is not a public benefit corporation do not have a dissolution clause, the remaining property must be distributed rateably to its members as noted above.

While corporations under the ONCA are required to set out any dissolution clause in their articles instead of by-laws, there is a limited exception for not-for-profit corporations that are not public benefit corporations and that were in existence before October 19, 2021 when the ONCA came into force. Paragraph 5 of subsection 207 (3) of the ONCA preserves the validity of a provision contained in a corporation's in a by-law or special resolution respecting the distribution of the remaining property of a corporation on winding up or dissolution that was valid before October 19, 2021 when the ONCA came into force if the provision is not removed or added to the articles to bring them into conformity with the ONCA. Subsection 167 (5.3) of the ONCA deems such property to have been distributed in accordance with the articles for the purposes of the ONCA.

If the Articles have a dissolution clause, the directors should pass a resolution to name the registered charity or other entity permitted by their articles in accordance with the ONCA that they want to receive the charity's remaining assets upon dissolution. This resolution should be passed before the corporation is dissolved.

If the directors do not distribute the corporation's property prior to dissolution, it will be forfeited to the Crown under section 173 of the ONCA, subject to certain exceptions referenced in section 173. Depending on the kind of forfeited property, the Public Guardian and Trustee may be responsible for its disposition under the *Escheats Act, 2015* or the Ministry of Government and Consumer Services under the *Forfeited Corporate Property Act, 2015*.

In the case of a charitable corporation, additional requirements apply in respect of dissolution (see items 6.2.3 and 6.3.3).

PART 6 ■ CHARITIES

Part 6 of the Handbook provides basic information about applying for Articles of Incorporation to create a charity. It also provides information about applying for other types of Articles that may be relevant through the life of the charity.

6.1 What is a charitable corporation?

Charities are a special kind of not-for-profit corporation. In order to be a charity, a corporation must meet the general requirements for not-for-profit corporations and some additional requirements. A summary of these additional requirements is set out below.

6.1.1. The Purposes of the Corporation Must be Legally Charitable

If you intend to establish a charitable corporation, its purposes must be charitable in law. The purposes describe the nature of the work the charitable corporation will undertake.

The legal meaning of charity is not the same as the popular meaning of the word. A charity, in the legal sense, must be set up to carry out activities that fall within one or all of the following headings:

1. Relief of poverty;
2. Advancement of education;
3. Advancement of religion; or
4. Other purposes beneficial to the community, as determined by the courts, but not falling under any of the above headings.

It is important that the purpose clauses clearly describe the activities the corporation will carry out. It is not acceptable simply to reproduce the four principal headings of charity. More details on charitable purposes clauses can be found in items 6.1.1. and 6.2.2.

All of the purposes of a charitable corporation must be wholly and exclusively charitable. A corporation which has some charitable purposes and some non-charitable purposes is not a charity.

Purposes must be stated precisely so that it is clear how the funds of the charity are supposed to be used. If it is not clear whether a purpose is charitable, the courts have decided that it will not be considered charitable. If the purpose is too broad or vague, it is unlikely to qualify as charitable.

6.1.2 The Purposes Must Promote a Public Benefit

A charity must benefit the community or a large part of the community - not only a few people. An organization that primarily promotes the interests of its private members will usually not qualify as charitable.

An organization established to raise funds for one person, such as a person facing a serious illness, is not considered charitable because it provides a benefit only to that person. Raising funds for medical research about the disease or to provide relief to persons suffering from the debilitating effects of the disease, would be charitable.

6.1.3 The Benefits of Being a Charity/Canada Revenue Agency Registration

'Registered' charities enjoy certain tax privileges. They are exempt from paying federal income tax and may have reduced liability for some municipal and provincial taxes. Registered charities also can issue income tax donation receipts so that donors can obtain tax credits. Many goods and services of registered charities are also exempt from the harmonized sales tax (HST).

Incorporating a charity is different from registering a charity with the Canada Revenue Agency under the Income Tax Act (Canada). Incorporating a charity creates a legal corporate entity. Registering a charity requires a separate application to Canada Revenue Agency for a charitable registration number (also known as a business number). The application forms and an explanatory brochure can be obtained by calling the Canada Revenue Agency, Charities Directorate or by visiting the Charities Directorate Website (see Contacts – Appendix "F").

Establishing an incorporated charity is only part of Canada Revenue Agency's requirements and does not guarantee registration. Canada Revenue must take other factors into consideration, including the application to register a charity and financial information.

Charities enjoy legal protections intended to protect charitable property. When a charitable purpose becomes impossible or impracticable to carry out, the courts apply charitable property to new purposes which are as similar as possible to the original purposes. A charity reporting to the Public Guardian and Trustee derives the following benefits:

- Members of the public, charitable foundations and government agencies that provide funding and donations often seek confirmation from the Public Guardian and Trustee that the charity is complying with the Public Guardian and Trustee's reporting requirements.
- The Public Guardian and Trustee maintains a database of Ontario charities that is regularly used to find charities entitled to receive gifts under Ontario estates.
- The Public Guardian and Trustee's database may also be used to identify charities which may be suitable to receive the property of dissolved charities or gifts from estates to non-existent, defunct or unidentifiable charities.

6.2 How to Incorporate a Charity

Charitable corporations are created by Articles of Incorporation, which is the primary governing document of the corporation. The Articles contain the charitable purposes of the corporation which will define and limit the activities the corporation can carry out.

The majority of Ontario charitable corporations may be incorporated by Articles of Incorporation issued under the ONCA. There are two other ways to incorporate a charity. They are not discussed in detail in the Not-For-Profit Incorporator's Handbook. If you need further information, you may contact the responsible organizations at the addresses set out below.

When incorporating a charity, it is important to remember that if a provision in the ONCA or in a regulation that applies to a charitable corporation conflicts with a law relating to charities, the law relating to charities prevails, regardless of whether it is a provision in another Act, a regulation made under it or a rule of principle of common law or equity (subsection 5 (2) of the ONCA).

By private bill or special Act of the legislature

The provincial legislature can pass a private bill or special Act establishing a charity. This procedure is generally more time-consuming than the two other methods. Today very few charities are created by a private bill or special Act of the legislature.

The rules of procedure and the fees and costs related to applications for private bills are set out in the Standing Orders of the Legislative Assembly. Copies of the Standing Orders of the Legislative Assembly and the guide "[Procedures for Applying for Private Legislation](#)" may be obtained from the Legislative Assembly's Internet site or from the Clerk of the Standing Committee on Regulations and Private Bills (see Contacts - Appendix "G").

By federal Certificate of Incorporation issued through Innovation, Science and Economic Development Canada

Certificates of incorporation can be issued under the Canada Not-for-profit Corporations Act. For particulars of application procedures, forms and fees applicants should contact Innovation, Science and Economic Development Canada (see Contacts - Appendix "F").

Charities that operate or have property or offices in Ontario must also comply with Ontario law concerning charities even if they are incorporated under federal law.

To incorporate by Articles of Incorporation, you may apply directly to ServiceOntario online or by mail. Please see Notice – ONCA – Incorporating a Not-for-Profit Corporation for information.

When incorporating a charity, the articles of incorporation should be completed in accordance with Parts 1 to 5 of this Handbook and after reviewing this chapter. This section provides details of the specific rules about incorporating a charity, as opposed to other not-for-profit corporations.

6.2.1 The Name of the Corporation

The name of a charitable corporation must comply with the ONCA (see Part 2 of the Handbook). The name should also describe the purpose of the charity.

The written consent of the Public Guardian and Trustee is required under paragraph 8 of section 2 of the Names and Filings Regulation if you wish to use “charity”, “organisme de bienfaisance”, “charitable”, “caritative” or any variation of those words.

The written consent of the Public Guardian and Trustee is also required under paragraph 7 of section 2 of the Names and Filings Regulation to use the word “foundation” or “fondation”, if the word suggests that the corporation is a charity.

With the exception of applications to incorporate a foundation, the name of a person or family should not be included in a charity's corporate name, as it is perceived to promote a private interest. However, the name of a person or family may be included in the name of a charitable corporation that is not a foundation if the proposed corporate name has a connection with the purposes of the corporation and (a) has through use acquired a meaning that renders the name distinctive; or (b) is of historic, patriotic or philanthropic significance. An application to incorporate a foundation may include a person's name as part of the corporate name, for example, the “Smith Foundation”.

If the name of a person or family is included in the corporate or foundation name, then the name must comply with the provisions relating to an individual's given name and surname or family name in the Names and Filings Regulation of the ONCA.

Please note that Public Guardian and Trustee will not provide its written consent to include “foundation” or “fondation” unless the purposes of the corporation include the following foundation purpose clause:

To receive and maintain a fund or funds and to apply all or part of the principal and income therefrom, from time to time, to charitable organizations that are also registered charities under the Income Tax Act (Canada).

A foundation may have other purpose clauses in addition to the foundation purpose clause but at the very least should carry out the function of a foundation.

6.2.2 The Purposes of the Corporation

The purposes of a corporation are set out in one or more paragraphs in the Articles of Incorporation. The purposes describe the nature of the work the charitable

corporation will undertake.

Generally, a charitable corporation can only carry out activities that fulfil the purposes described in the purpose clauses. It can carry out other activities provided they further the purposes and are minor in relation to the described purposes. It is not permissible to use the assets of the corporation for purposes, charitable or not, which are outside the scope of the purposes set out in the articles.

Many charities write their own purposes or use Canada Revenue Agency example purposes; others use a combination of both.

Canada Revenue Agency Examples of Purposes

The Canada Revenue Agency provides information on how to draft your own charitable purposes and examples of purposes for some of the most common types of charitable corporations. These can be found in Appendix C (see **Appendix "C"**). You may want to access this information online through the website for the most current list.

The Canada Revenue Agency's examples of purposes can be found on-line at the [charitable purposes and activities](https://www.canada.ca/en/revenue-agency.html) page on the website:
<https://www.canada.ca/en/revenue-agency.html>.

When applying for Articles of Incorporation with ServiceOntario, the corporation must indicate that it intends to operate as a charity. In that case, the purposes must be entered into the applicable field and must be exclusively charitable purposes. If the Canada Revenue Agency example purposes are used, the purposes can be used only if the clauses accurately describe the intended purposes of the organization and are used word-for-word.

Deciding Whether to Use Canada Revenue Agency Examples of Purposes

The sample purposes may not be suitable for all charities. Before deciding to use sample purposes you should think about the activities your charity will carry out both on start-up and in the foreseeable future. Engaging in activities beyond the scope of the purposes set out in the articles of incorporation is not permissible. Directors that use a charity's funds for purposes other than those in the purpose clauses may be required by a court to repay money which has been misapplied.

If the sample purposes do not accurately describe the purposes you intend to carry out, it may be necessary for you to draft clauses which reflect the unique nature of the work your corporation will undertake. Even if ServiceOntario issues the Articles of Incorporation, it is the corporation's responsibility to determine whether any variation wording is acceptable for registration as a charity with the Canada Revenue Agency.

When it is necessary for you to draft your own charitable purposes, Canada Revenue Agency has also published guidance on how to draft charitable purpose clauses entitled, "[How to draft purposes for charitable registration](https://www.canada.ca/en/revenue-agency.html)" on the website: <https://www.canada.ca/en/revenue-agency.html>.

The Public Guardian and Trustee cannot review or assist in the drafting of charitable purposes.

The following principles provide some guidance:

- Each purpose must qualify as charitable and benefit the community;
- Purposes must be stated precisely, so that it is clear how the funds of the charity are supposed to be used;
- A purpose that is political in nature, such as advocating for a change in the law, or focused on promoting the interest of a particular group, usually will not qualify as charitable;
- Soliciting funds is not considered a charitable purpose, in itself, although charities are allowed to solicit funds. It should not be included in the section that sets out the charitable purposes;
- 'Philanthropic', 'patriotic', 'benevolent' and 'public' purposes are often unacceptable, as the words may be too vague;
- The promotion of a particular sport is usually not charitable.

6.2.3 Special Provisions

The special provisions set out some of the duties and obligations of the charity and its directors. The Public Guardian and Trustee requires that the special provisions set

out in Appendix "D" be included the articles under Special Provisions. These will appear automatically in the articles when filed online, and are also pre-populated in the paper form. As noted in item 5.17, special rules apply to the distribution of property of a charitable corporation; the required dissolution clause is included the special provisions required for charitable corporations set out in Appendix "D."

6.2.4 Natural Person Powers

A charitable corporation has the capacity, rights, powers and privileges of a natural person, subject to restrictions found in the ONCA and charities law. Therefore, it is not necessary to enumerate additional other powers in the articles of incorporation.

One of the fields in the articles of incorporation is "Special Provisions". The activities of a charity are already limited to ones which fulfil its purposes (see 6.1.1 and 6.2.2). Accordingly, this section can be left blank. If a charitable corporation wishes to restrict its powers, such restrictions should be specified in article 6 of the application under Special Provisions.

If you include power clauses in the articles of incorporation, which generally are not required, such clauses should not be intermixed with the charitable purposes, but should be listed under a separate heading entitled 'Powers'.

6.2.5 Special Situation of Religious Organizations

Many religious organizations have their own system of rules or religious law. If a religious organization becomes incorporated, its own law, rules or regulations are subject to the ONCA. This means that if any religious law conflicts with the ONCA, the organization, once incorporated, must comply with the ONCA and charities law of general application. To the extent that any religious law, rule or regulation conflicts with the ONCA or other charities law, the organization will no longer be able to use that law, rule or regulation.

6.2.6 Filing the Articles of Incorporation

Applications to incorporate a charity may be made directly to ServiceOntario online using ServiceOntario's website at www.ontario.ca or by mail in the form approved by the Director under the ONCA. The approval of the Public Guardian and Trustee is not required to incorporate a charity in Ontario. For filing requirements, see Notice –

ONCA – Incorporating a Not-for-Profit Corporation. The approved form is available on the ServiceOntario web site at www.ontario.ca.

6.3 Other Articles and Applications for Charitable Corporations

During the life of the charity, it may become necessary for the charity to file other articles or applications. For instance, the charity may want to change its purposes (Articles of Amendment), amalgamate with another charity (Articles of Amalgamation), move the charity to another jurisdiction (Application for authorization to Continue out of the ONCA), revive the charity if it has been cancelled (Articles of Revival) if it is cancelled, or end its work and voluntarily dissolve (Articles of Dissolution). As well, charities from other jurisdictions may apply to continue into Ontario under the ONCA (Articles of Continuance).

6.3.1 Changes to Purposes

If the charity wishes to change its purposes as part of an application, e.g. articles of amendment, note that, as a general principle, once charitable purposes are declared, they can only be changed in limited circumstances. This is the case even if new purposes would be more beneficial to society. Circumstances in which charitable purposes may be amended include changes that are not significant. Examples of such changes are:

- Deleting purposes the corporation no longer intends to carry out or narrowing the scope of the purposes.
- Rewriting the purposes to reflect social changes in the use of certain terminology, for example replacing words such as “crippled” with “disabled” or “people with disabilities”.
- Expanding or otherwise changing the power clauses.

A charity's assets can be used only to promote its charitable purposes. Changes may take place that make the purposes obsolete, not useful, or impossible to fulfil and, from time to time, it may be necessary to change the purposes so that the charity's resources can be applied more efficiently. In law, funds raised for a specific charitable purpose must be used for that purpose, unless a Court directs otherwise. Regardless of the change being made, the corporation must include the “after acquired” clause set out below unless the Public Guardian and Trustee has provided its written consent.

Required Provision – Any Change in Charitable Purposes

Under sections 24 and 27 of the Names and Filings Regulation, if a charitable corporation files articles to change to its purposes, it must include the following “after acquired” clause unless the corporation has obtained the written consent to omit it from the Public Guardian and Trustee:

- All funds and other property held by the corporation immediately before the articles become effective or that are received subsequently by the corporation pursuant to any will, deed or other instrument made before the articles become effective, together with any income or other accretions to the funds or other property, will be applied only to the purposes of the corporation as they were immediately before the articles become effective.

In general terms, the above paragraph provides that:

- Funds and other property acquired **before** the articles of amendment become effective can only be used for the purposes in place before they were changed by the articles of amendment; this includes all income received from a Will, deed or other trust made before the articles of amendment became effective, regardless of when the funds or property are received;
- Funds and other property acquired **after** the articles of amendment become effective can only be used for the purposes as changed by the articles of amendment.

Be sure to include the above paragraph or to obtain the written consent of the Public Guardian and Trustee in advance in these cases. The written consent of the Public Guardian and Trustee must be retained by the charity at its registered office and provide a copy in accordance with any notice from the Director.

6.3.2 Special Provisions

When a charity submits an application, it should check its incorporating documents to ensure that all of the special provisions mentioned in Appendix “D” have been included. If any of the special provisions are missing or need to be updated, these may be added as part of the application.

6.3.3 Dissolution – Special Considerations

The directors of the charity have a fiduciary duty to properly dispose of the charity's assets prior to its dissolution.

Articles of incorporation are required to have a dissolution clause and the charity should be dissolved in compliance with the clause and the ONCA and other charity law in Ontario. The dissolution clause is one of the special provisions required for charities set out in Appendix "D". See item 5.17 for additional information, including requirements that apply if the charity is governing by an incorporating document that does not have a dissolution clause.

In the course of dissolution, the legal prohibition against directors receiving any personal benefit from the charity is still in force. As such, if the charity appoints a director as liquidator, that person cannot be paid, despite the payment provisions of the ONCA.

Neither should a director purchase any property of the charity, without approval of the court or an order under section 13 of the Charities Accounting Act (see next section).

Restricted Purpose Funds

If money or other property is given to a charity for a restricted (or 'special') purpose the charity must use the money for the restricted purpose - it holds the money in trust for that purpose. Directors of a dissolving charity have an obligation to ensure that any restricted purpose trust property is properly distributed when the corporation is dissolved.

Directors of a dissolving charity must transfer the funds to a new charity on the condition that the funds are to be used for the original restricted purposes.

If money is held by a charity for a restricted purpose and it is not possible to find a charity willing to accept the funds or carry out that restricted purpose, the charity will need a Court Order to dispose of the property. An order can be obtained quickly and relatively inexpensively using Section 13 of the Charities Accounting Act, on the consent of the Public Guardian and Trustee. The Public Guardian and Trustee will work with the last directors of the charity to obtain such an order. You

should contact the Charitable Property Program to see if this is feasible in your particular circumstances.

6.3.4 How to Apply – Other Articles and Applications

If No Public Guardian and Trustee consent required

Except in circumstances where the Public Guardian and Trustee or another Ministry's consent is required, all such applications may be filed directly with ServiceOntario or a service provider online using ServiceOntario's website at www.ontario.ca or by mail (see the applicable Notice of Filing Requirements; also see Contacts - Appendix "F"). In either case, you must mark the box that indicates if the corporation is a charity or intends to operate as a charity.

Please note that the consent of other Ministries may be required. For example, another Minister's consent is required if articles of revival are filed and any of the following Minister have notified the Director under the ONCA that their consent is required under section 33 of the Names and Filings Regulations for revival of the corporation: the Minister responsible for the Forfeited Corporate Property Act, 2015; the Minister responsible for the Environmental Protection Act; the Minister responsible for the Mining Act (except for Part IV of that Act).

Note that where consent is needed from the Public Guardian and Trustee only for the name of the corporation under the Names and Filings Regulation, the application or articles may also be sent directly to SO. For details, see the applicable Notice of Filing Requirements, available on the Central Forms Repository.

If Consent of the Public Guardian and Trustee Required

Articles and applications must be filed first with the Public Guardian and Trustee when its written consent required in the following circumstances:

- Written consent from the Public Guardian and Trustee is required under section 27 of the Names and Filings Regulation if a charitable corporation files articles to change to its purposes without including the "after acquired" clause required by section 24 of the of the Regulation set out above (see item 6.3.1). Be sure to include the "after acquired" clause wording, or to obtain the written consent of the Public Guardian and Trustee in advance in these cases.

- Written consent of the Charitable Property Program of the Public Guardian and Trustee is required under section 26 of the Names and Filings Regulation to file articles or applications if both of the following apply:
 1. The Public Guardian and Trustee is conducting or has conducted an inquiry into whether,
 - i. the corporation or an officer, director or incorporator of the corporation has misapplied charitable property, or
 - ii. an officer, director or incorporator of the corporation has breached their fiduciary duties in relation to charitable property.
 2. The Public Guardian and Trustee has notified the Director that the consent must be obtained.
- Written consent to the revival of the corporation is required from the Public Guardian and Trustee under section 33 of the Names and Filings Regulation for Articles of Revival under section 170 of the ONCA if the Public Guardian and Trustee has notified the Director under the ONCA that its consent is required.

In the above cases where written consent of the Public Guardian and Trustee is required, the application must first be sent to Public Guardian and Trustee at the address below (see Contacts - Appendix "F") for its written consent before the application or articles are filed together with the required consent to ServiceOntario. The Public Guardian and Trustee or ServiceOntario will contact the applicant directly with any questions.

The following additional information must be included for the review of the Public Guardian and Trustee:

- A cover letter setting out the name, email address and telephone number of the person or firm to whom the articles of amendment, or any correspondence regarding the application should be sent and setting out all names, including acronyms used by the charity
- A copy of the completed application or articles, together with any required supporting documents
- The current names and addresses of the directors and officers (emails optional)
- Copies of all of the charity's incorporating documents and any amending

corporate documents (letters patent, supplementary letters patent, articles of incorporation, articles of amendment, etc.) issued previously

- Copies of the charity's financial statement as required by the ONCA for the previous three financial years (see item 5.7 "Audit Provisions"). If the charity has been incorporated less than three years, then financial statements are required for each full financial year since incorporation. If financial statements are unavailable an explanation must be provided. A not-for-profit applying to become a charity must be solvent.

6.4 The Public Guardian and Trustee

6.4.1 Role of the Public Guardian and Trustee

In Ontario, the Charitable Property Program at the Office of the Public Guardian and Trustee plays a role in helping to protect charitable assets under the Charities Accounting Act, and other legislation. This role includes reviewing certain corporate applications, inquiring into complaints about the misuse of charitable property and representing unprotected charitable interests in court proceedings.

6.4.2 Reporting Requirements of the Public Guardian and Trustee

Charities and others receiving or holding property for charitable purposes are required to provide information to the Public Guardian and Trustee under sections 1 and 2 of the Charities Accounting Act. This requirement is in addition to other reporting obligations, for example, to Canada Revenue Agency under the federal *Income Tax Act*.

The reporting requirements apply to charitable corporations incorporated in Ontario, charitable trusts and unincorporated charitable organizations and to federally incorporated charities if they operate or have assets or offices in Ontario.

If the charity is incorporated in Ontario, charities must provide to the Public Guardian and Trustee the following documents and information:

- 1.** A copy of the incorporating document (Letters Patent, articles of incorporation, etc.);
- 2.** The street and mailing addresses of the organization and the names and

addresses (street and mailing) of its directors, trustees, and officers;

3. Notification of any changes to #1 & #2 above as they occur.

This information does not have to be submitted on a particular form and can be provided by way of a letter to the Public Guardian and Trustee.

The requested information should be mailed or faxed to the Office of the Public Guardian and Trustee (see Contacts – Appendix “F”).

6.4.3 Additional information which may be required by the Public Guardian and Trustee

The Public Guardian and Trustee can request information and documentation about the administration or management of the charity. When the information is requested under section 2 of the Charities Accounting Act the directors of the charity are required to provide it.

The Public Guardian and Trustee can require that the accounts of the administration and management of a charity’s property be passed in the Superior Court of Justice. The passing of accounts is a legal process in which a charity submits a detailed record of its expenses and revenues. The Public Guardian and Trustee could ask for records for a period of multiple years, if appropriate.

6.4.4 Information on Charitable Matters from the Public Guardian and Trustee

The Office of the Public Guardian and Trustee offers several information brochures with respect to charitable matters, including legal information for directors:

To see these and other brochures, please visit the Public Guardian and Trustee’s webpage at: ontario.ca/OPGT.

APPENDIX “A”: Samples of Purposes for Non-Profit, Non-Charitable Corporations under the ONCA

Athletics and Sports

- 1. **Athletics Clubs:** The establishment and operation of an athletics club for the purposes of
 - a) promoting organized athletics sports, games and recreation, and in particular, _____;
 - b) arranging games, matches and competitions, and establishing and granting prizes, awards and distinctions;
 - c) fostering goodwill and sportsmanship;and such other complementary purposes not inconsistent with these purposes.

- 2. **Golf (Tennis):** The establishment and operation of a golf (tennis), country, sporting and social club for the purposes of
 - a) promoting interest and participation in the sport of golfing (tennis);
 - b) arranging tournaments and competitions, and establishing and granting prizes, awards and distinctions;
 - c) providing dining, meeting, changing, and equipment rooms and other facilities for members and their guests;and such other complementary purposes not inconsistent with these purposes.

- 3. **Hockey:** The establishment and operation of a hockey club for the purposes of
 - a) promoting interest in amateur hockey;
 - b) arranging matches and competitions, and establishing and granting prizes, awards and distinctions;

and such other complementary purposes not inconsistent with these purposes.

4. **Riding:** The establishment and operation of a riding club for the purposes of
 - a) fostering interest in horsemanship;
 - b) encouraging breeding and showing of horses (and, particularly, the sponsorship of an annual exhibition and horse show;
 - c) encouraging matches and competitions between various breeds of horses;
 - d) promoting the good qualities and merits of various breeds of horses;

and such other complementary purposes not inconsistent with these purposes.

5. **Snowmobiling:** The establishment and operation of a snowmobile club for the purposes of
 - a) promoting safe snowmobiling;
 - b) arranging for instruction, displays and exhibits of snowmobiling skills;
 - c) arranging matches and competitions and establishing and granting prizes, awards and distinctions;

and such other complementary purposes not inconsistent with these purposes.

Arts

1. **Dance:** The establishment and operation of dance festivals for the purposes of promoting dancing and the allied arts, and public appreciation and interest therein, and such other complementary purposes not inconsistent with these purposes.
2. **Literary:** The establishment and operation of a literary society for

the purposes of

- a) encouraging creative writing in all forms;
- b) establishing and granting prizes, awards and distinctions;

and such other complementary purposes not inconsistent with these purposes.

3. Music: The establishment and operation of a music society for the purposes of

- a) promoting interest in and the study and practice of the musical arts;
- b) promoting lectures, concerts, classes and seminars in music and music-related activities;
- c) arranging competitions and exhibitions, and establishing and granting prizes, awards and distinctions;

and such other complementary purposes not inconsistent with these purposes.

4. Photography: The establishment and operation of a photography club for the purposes of studying and promoting the art and science of photography, and such other complementary purposes not inconsistent with these purposes.

5. Theatre: The establishment and operation of dramatic theatre for the purposes of

- a) promoting interest in and the practice of drama and the related arts;
- b) establishing and operating a theatre and repertory group;
- c) providing facilities for education and instruction in the theatrical arts;
- d) advancing knowledge and appreciation of dramatic culture and tradition by theatrical performances;
- e) conducting annual theatrical festivals;

and such other complementary purposes not inconsistent with these purposes.

Business / Professional Groups

- 1. **Employees:** The establishment and operation of an employees' association for the purposes of
 - a) promoting the interests and well-being of the employees of _____;
 - b) organizing cultural, educational and recreational events for the benefit of the members;
 - c) to provide a forum for the discussion of issues of importance or of interest to the members;

and such other complementary purposes not inconsistent with these purposes.

- 2. **Merchants' Association:** The establishment and operation of a merchants' association for the purposes of
 - a) promoting the area of **(define locale, e.g. downtown Toronto)** as a desirable shopping district;
 - b) promoting and encouraging fair and courteous dealings with customers;
 - c) promoting and encouraging ethical business practices;

and such other complementary purposes not inconsistent with these purposes.

- 3. **Professional Association:** The establishment and operation of a **(specify)** professional association for the purposes of
 - a) uniting members of the **(specify)** profession and promoting the character and status of the profession, supporting ethical business practices, considering questions of professional usage and courtesy among members of the profession;
 - b) promoting the maintenance and improvement of the

- qualifications and standards of the profession;
- c) sharing information for the mutual benefit of the members;
- d) to represent the members and present their views to other associations and government and regulatory agencies;
- e) to work with government agencies to develop quality assurance procedures that can be endorsed by government;

and such other complementary purposes not inconsistent with these purposes.

4. Trade Association: The establishment and operation of a **(type of trade, e.g. manufacturers)** association for the purposes of

- a) promoting the interests and the rights of those engaged in the **(trade)** and incidental businesses;
- b) promoting uniformity in usage, custom and trade conditions;
- c) providing business information and statistics of interest to business persons in the **(trade)**;
- d) promoting the maintenance and improvement of the qualifications and standards of the **(trade)**;
- e) fostering good relationships and the exchange of expertise between Canadian and foreign businesses;

and such other complementary purposes not inconsistent with these purposes.

Community

1. Community Association: The establishment and maintenance of a community organization for the purposes of

- a) developing and fostering community spirit;
- b) promoting organized athletics, arts, recreation, education, civic emergency, social service and other community endeavours;
- c) establishing educational, recreational and athletic programs for benefit to the community;
- d) promoting the establishment of adult educational programs

and the attainment of athletic facilities and equipment for the benefit of the community;

and such other complementary purposes not inconsistent with these purposes.

2. Community Centre: The establishment and operation of a community centre for the purposes of

- a) promoting the best interests of the community generally;
- b) promoting interest in athletics, sports and recreation in the community and establishing and maintaining physical facilities and equipment for same;

and such other complementary purposes not inconsistent with these purposes.

3. Conservation: The establishment and operation of a conservation association for the purposes of

- a) uniting all persons interested in the conservation of flora and fauna, the natural beauties of **(locale)** and the beautification, preservation and extension of parks and green belts;
- b) gathering and exchanging ideas, data and statistical, scientific, horticultural and botanical information;
- c) to promote the protection and appreciation of the environment;

and such other complementary purposes not inconsistent with these purposes.

4. Ethnic: The establishment and operation of a club for the purposes of

- a) uniting the residents of Ontario who are of _____ origin;
- b) preserving and perpetuating the traditions of _____;
- c) sponsoring literary, musical and other educational and cultural events, festivals, pageants and conventions for the

- promotion of people of _____ descent;
- d) promoting interests of members and mutual aid and assistance whenever necessary;
- e) establishing and maintaining a centre for cultural activities for Canadians of _____descent in the Province of Ontario;

and such other complementary purposes not inconsistent with these purposes.

5. Home and School Association: The establishment and operation of a home and school association for the purposes of

- a) uniting the students, parents and teachers of **(specify school)** and promoting a high standard of education and development;
- b) to organize and perform fundraising activities to subsidise the cost of school outings and/or the attainment of sports and educational equipment;
- c) co-operating with government agencies, school boards and other home and school associations and to represent the interests of the students of (specify school);

and such other complementary purposes not inconsistent with these purposes.

6. Lobbying: The establishment and operation of a public lobbying organization for the purposes of

- a) securing public support in Canada for the enactment/repeal of legislation by the government dealing with _____;
- b) making representations to the government for the enactment/repeal of such legislation;
- c) rendering assistance to the government by supplying information collected as a result of research carried on under the auspices of the corporation;
- d) co-ordinating activities of the corporation with those of similar organizations, societies and individuals in Canada;

and such other complementary purposes not inconsistent with these purposes.

7. Research / Scientific: The establishment and operation of a non-profit research/scientific association for the purposes of

- a) undertaking technical, statistical and scientific research in commercial, industrial, cultural and scientific fields;
- b) engaging in the investigation and development of products, methods of manufacturing and distribution;
- c) promoting the science of _____ and the knowledge and practice thereof;
- d) holding conferences, meetings and exhibitions for the discussion of _____ problems and exchange of views thereon;
- e) establishing scientific projects;
- f) maintaining a website and/or publishing information in connection with _____;

and such other complementary purposes not inconsistent with these purposes.

8. Residents: The establishment and operation of a residents' association for the purposes of

- a) advancing the cultural and social interests of the seasonal and permanent owners and residents of properties in and around _____ in the province of Ontario;
- b) carrying on research and investigation into problems connected with the ownership and development of property in _____;
- c) promoting aquatic, athletic, physical and other social and cultural activities among the residents of the said area;
- d) maintaining private roadways and common areas on property owned by the corporation or in which the corporation has an interest.

and such other complementary purposes not inconsistent with these

purposes.

9. Service Club: The establishment and operation of a service club for the purposes of

- a) pursuing interests in the civic, commercial, social and moral welfare of the community;
- b) providing a forum for the discussion of all matters of public interest;
- c) promoting and fostering interests in the welfare of the World and international relationships;
- d) promoting the principles of good government and good citizenship;
- e) uniting persons interested in the bonds of friendship, good fellowship and mutual understanding;
- f) encouraging and carrying on social and welfare work;
- g) improving and promoting good business and professional ethics;

and such other complementary purposes not inconsistent with these purposes.

APPENDIX “B”: Reporting Requirements of the Office of the Public Guardian and Trustee

Charities and others receiving or holding property for charitable purposes are required to provide information to the Public Guardian and Trustee under sections 1 and 2 of the Charities Accounting Act, R.S.O. 1990, c. C.10 as amended. This requirement is distinct from other reporting obligations, for example to Canada Revenue Agency under the federal Income Tax Act.

This information is used to monitor compliance with charities law and to identify charities that may be candidates to receive funds and property of defunct charities, charitable gifts to named charities that cannot be identified, and charitable gifts not designated to be given to any named charity.

Reporting Requirements

The reporting requirements apply to charitable corporations incorporated in Ontario, charitable trusts and unincorporated charitable organizations and to federally incorporated charities if they operate or have assets or offices in Ontario.

If the charity is incorporated in Ontario, the Public Guardian and Trustee will have access to first two documents listed and the charity does not need to submit them.

Charities must provide to the Public Guardian and Trustee the following documents and information:

1. A copy of the incorporating or other governing document (Letters Patent, articles of incorporation, trust deed, constitution, etc.);
2. The street and mailing addresses of the organization and the names and addresses (street and mailing) of its directors, trustees, and officers;
3. Notification of any changes to #1 & #2 above as they occur.

This information does not have to be submitted on a particular form and can be provided by way of a letter to the Public Guardian and Trustee.

Please mail or fax required information to:

Office of the Public Guardian and Trustee
Charitable Property Division
595 Bay Street, Suite 800
Toronto ON M5G 2M6
Fax: (416) 326-1969

APPENDIX “C”: Canada Revenue Agency – Examples of Purpose Clauses For Use In Incorporating A Charity (please contact the Canada Revenue Agency for more information)

Relief of poverty

- To relieve poverty by operating a food bank for [specify eligible beneficiaries, for example, individuals or families who are poor, of low income, or in need].
- To relieve poverty by operating a soup kitchen for [specify eligible beneficiaries, for example, individuals or families who are poor, of low income, or in need].
- To relieve poverty by providing basic necessities of life, including food, clean water, clothing, and/or shelter to [specify eligible beneficiaries, for example, individuals or families who are poor, of low income, or in need].
- To relieve poverty by providing food and other basic necessities of life to [specify eligible beneficiaries, for example, individuals or families who are poor, of low income, or in need].
- To relieve poverty by providing residential accommodation below market rate, support, and incidental facilities to [specify eligible beneficiaries, for example, individuals or families who are poor, of low income, or in need].
- To relieve poverty by establishing, operating and maintaining shelters for the homeless.

Relief of poverty – [Developing nations](#)

- To relieve poverty in developing nations by providing food and other basic necessities of life to individuals or families in need.
- To relieve poverty in developing nations by providing basic necessities of life, including food, clean water, clothing, and/or shelter to [specify eligible beneficiaries, for example, individuals or families who are poor, of low income, or in need].

Relief of poverty – [Disaster relief](#)

- To relieve poverty by providing necessities of life, including food, clean water, medical supplies, clothing, and/or shelter to victims of disasters.

Advancement of education

- To advance education by establishing and operating a public [primary, secondary, or post-secondary] school for [specify eligible beneficiaries] [if required, specify topic(s)].
- To advance education by providing books, equipment, and educational aids to students attending [specify name of school].
- To advance education by providing classes on the subjects of childbirth education, preparation for parenting, and nutrition to [specify].
- To advance education by providing leadership training programs to [specify eligible beneficiary group].
- To advance education by providing publicly available scholarships, bursaries, and other forms of financial assistance to [specify eligible beneficiaries] to be used for [specify, elementary, secondary, or post-secondary] education.
- To advance education by providing awards to [specify eligible beneficiaries] to encourage academic excellence.
- To advance education by training police officers, teachers, social workers, and crisis response workers to recognize and respond to online sexual exploitation and to assist children and youth affected by this issue.
- To advance education by operating a science fair for students across Canada.

Advancement of education – Arts

- To advance education by providing instructional seminars on topics related to the performing and visual arts to [specify eligible beneficiaries].

Advancement of Religion

- To advance religion by teaching the religious tenets, doctrines, and observances associated with [specify religion or faith].

- To advance religion by preaching the teachings, and religious tenets, doctrines and observances, associated with [specify faith or religion].
- To advance religion by establishing and maintaining a house of worship with services conducted (or held) in accordance with the tenets and doctrines of [specify faith or religion].
- To advance religion by establishing and maintaining a religious school of instruction on the subject of [specify faith or religion] for [specify children, youths, and/or adults].
- To advance religion by establishing a facility to be used for religious programs, workshops, music, and [specify for example Bible, Qur'anic, Talmudic or other] studies.

Other Purposes Beneficial to the Community recognized as Charitable by the Courts:

Promotion of health

- To promote health by providing the public with [specify type of] medical services.
- To promote health by providing affected populations with health care services or products that prevent and manage serious threats to health and survival.
- To promote health by providing accident victims with physical, occupational, or speech therapy.
- To promote health by protecting and maintaining public health through the operation of a healthy-heart program to slow the development and progression of heart disease.
- To promote health by providing individuals with [specify health condition] with access to related counselling, information, or group support programs.
- To promote health by providing public ambulance, paramedic, or firefighting services.

Advancing the public's appreciation of the arts

- To advance the public's appreciation of the arts by providing high-quality artistic performances in [specify for example, public places, senior citizens homes, churches, community centres, and educational institutions].
- To advance the public's appreciation of the arts by producing public art exhibitions, presentations, and performance art(s) events, and by providing a forum for qualified artists to exhibit, present, or perform their artistic works through participation in such events.
- To advance the public's appreciation of the arts by:
 - providing high-quality public performances of classical choral works; and
 - providing free performances for audiences that may not be able to attend regular performances.

Protection of the environment

Ecosystem preservation

- To protect the environment for the benefit of the public by conserving or restoring ecosystems and biodiversity on a long-term basis.

Pollution reduction

- To protect the environment for the benefit of the public by conserving ecosystems through saving, supporting, protecting, or assisting stressed or endangered forms of life (including plant and animal life).
- To protect the environment for the benefit of the public by reducing pollution for the benefit of the public by operating a water testing and treatment program at [specify location].
- To protect the environment for the benefit of the public by reducing pollution and by cleaning up or remediating polluted [specify air, water, or ground].

Promoting the welfare of animals

- To promote the welfare of animals for the benefit of the public by spaying or neutering domestic pets, and/or feral or stray animals.
- To promote the welfare of animals for the benefit of the public by:
- rescuing stray, abandoned, abused, or surrendered animals; and

- operating an animal adoption program.

Addressing and preventing specific problems faced by children or youth

- To address and prevent problems faced by children or youth by providing publicly available crisis counselling.
- To address and prevent problems faced by children by operating a latchkey program for [specify eligible beneficiaries, for example, children attending public elementary schools].
- To address and prevent problems faced by youth by operating a supervised youth centre (or drop-in centre) that provides structured programs directed toward resolving [specify the problem(s)].
- To address and prevent problems faced by youth by establishing, operating, and maintaining a long-term group home for youth dealing with [specify problem(s)].
- To address and prevent problems faced by youth by establishing, operating, and maintaining a life-skills learning centre for Aboriginal children and youth dealing with [specify problem(s)].

Addressing and preventing specific problems faced by families

- To address and prevent specific problems faced by families by establishing and operating an assessment and counselling center for children, youth, and parents dealing with behaviour management issues.
- To address and prevent specific problems faced by families by providing parents, children, and youth with mentoring programs, workshops, and seminars on issues such as anger management, conflict resolution, and effective communication.
- To address and prevent specific problems faced by families by providing grief support and counselling for survivors that addresses issues associated with the loss of family members.
- To address and prevent specific problems faced by families by providing counselling and outreach programs to individuals affected by family violence.

Relieving conditions associated with the aged

- To relieve conditions associated with the aged by providing specially adapted residential accommodation, incidental facilities, and support to [specify eligible beneficiaries].
- To relieve conditions associated with the aged by providing personal care, housekeeping, meals, nursing, shopping assistance, and transportation to medical appointments to [specify eligible beneficiaries].

Relieving conditions associated with disability

- To relieve conditions associated with disability by providing specially adapted residential accommodation, incidental facilities, and support to [specify eligible beneficiaries].
- To relieve conditions associated with disability by providing trained personnel and specialized services that assist [specify eligible beneficiaries] in their daily activities.
- To relieve conditions associated with disability by providing athletic and recreational programs to support the physical, mental, and emotional well-being of [specify eligible beneficiaries].
- To relieve conditions associated with disability by providing life management counselling and other supportive services to [specify eligible beneficiaries] to become and remain more independent in the community.
- To relieve conditions associated with disability by providing job training and job placement assistance to [specify eligible beneficiaries].
- To relieve conditions associated with disability by providing camps with specially adapted programs and facilities for children or youth with [specify condition(s)].
- To relieve conditions associated with disability by providing assistive devices to [specify eligible beneficiaries].

Providing public amenities

- To provide a public amenity by establishing and maintaining a memorial garden for the public.

- To provide a public amenity by establishing and maintaining a park in [specify community].
- To provide a public amenity by establishing and maintaining a public children's playground].
- To provide a public amenity by establishing, administering, and maintaining a multi-use recreational facility in [specify community].
- To provide a public amenity by establishing and maintaining a [specify type of museum] for the public.

Protecting and preserving significant heritage sites

- To protect and preserve significant heritage sites by restoring, developing, and maintaining the [specify the historic site] with a view to commemorating the site and educating the public about it.

Promoting the efficiency of the Canadian Armed Forces

- To promote the efficiency of the Canadian Armed Forces for the benefit of the public by providing [air, sea, or army] cadet training to youth.

Promoting commerce or industry

- To promote and maintain efficiency and high standards of practice in the [specify industry, trade, or profession] for the benefit of the public by developing training programs for, and providing funds for the training of, individuals engaged in the [industry, trade or profession].
- To promote excellence and efficiencies in the [specify industry, trade or profession] in Canada for the benefit of the public by establishing and maintaining best practices and standards of workmanship, through the development and institution of an apprenticeship program.
- To promote excellence in the [specify industry, trade or profession] in Canada for the benefit of the public by conducting research on best practices related to that [specify industry, trade or profession] and disseminating the results of the research to the public.

APPENDIX “D”: Special Provisions Required for Charitable Corporations

If the corporation intends to operate as a charity, the following special provisions will form part of the articles:

- a. Commercial purposes, if any, included in the articles are intended only to advance or support one or more of the non-profit purposes of the corporation. No part of a corporation's profits or of its property or accretions to the value of the property may be distributed, directly or indirectly, to a member, a director or an officer of the corporation except in furtherance of its activities.
- b. The corporation shall be subject to the Charities Accounting Act.
- c. No director shall receive remuneration for services provided in the capacity as a director, although they may be paid reasonable expenses incurred by them in the performance of their duties. Unless otherwise prohibited by the corporation, a director may be compensated for services other than as a director pursuant to the regulation made under the Charities Accounting Act, or with court approval or an order made under section 13 of the Charities Accounting Act.
- d. To invest the funds of the corporation pursuant to the Trustee Act.
- e. Upon the dissolution of the corporation and after satisfying the interests of its creditors in all its debts, obligations and liabilities, its remaining property shall be distributed to a Canadian body corporate that is a registered charity under the Income Tax Act (Canada) with similar purposes to its own, the Crown in right of Ontario, the Crown in right of Canada, an agent of either of those Crowns or a municipality in Canada.

APPENDIX “E”: Fees as of the date of publication of this Handbook

The applicable ServiceOntario fees are listed below.

Articles and Applications that do not require the consent of the Public Guardian and Trustee may be filed directly with ServiceOntario online or by mail (see item 3.2). If filing by mail, the applicable ServiceOntario fee is payable to the Minister of Finance.

Articles or applications that require the written consent of the Public Guardian and Trustee (see item 6.3.4) are sent first to the Public Guardian and Trustee. If the Public Guardian and Trustee provides its written consent to the applicant, the articles or application and the ServiceOntario fee may then be filed with the Ministry of Government and Consumer Services.

ServiceOntario Fees – charitable and non-charitable

- Articles of Incorporation - \$155
- Articles of Amalgamation and Articles of Continuance - \$155
- Articles of Amendment - \$130
- Articles of Dissolution – no ServiceOntario fee
- Articles of Revival - \$100
- Application for Authorization to Continue Out of ONCA - \$155

PLEASE NOTE: The above are the fees at the time of printing of this Handbook. To verify a particular fee contact ServiceOntario (see Contacts – Appendix “F”).

APPENDIX “F”: Contacts

Alcohol and Gaming Commission of Ontario

AGCO Head Office
Licensing and Registration Branch
90 Sheppard Avenue East, Suite 200
Toronto, Ontario M2N 0A4
Telephone: (416) 326-8700 or
toll free in Ontario: 1-800-522-2876
Website: www.agco.on.ca/en/h.home.html

Association of Professional Engineers of Ontario

To request consent to the use of the word “Engineer” or “engineering” or any variation thereof contact the Association of Professional Engineers of Ontario:

Professional Engineers Ontario
40 Sheppard Avenue West, Suite 101
Toronto ON M2N 6K9
Phone: (416) 224-1100
Toll Free: 1-800-339-3716
Website: www.peo.on.ca

Canada Revenue Agency

Charities Directorate
In writing: Charities Directorate
Canada Revenue Agency
Ottawa ON K1A 0L5
Telephone in the Ottawa area:
613-954-0410 (English) or 613-954-6215 (bilingual)

Toll free elsewhere in Canada:
1-800-267-2384 (English) or 1-888-892-5667 (bilingual)
Website: www.cra-arc.gc.ca/charities

Clerk of the Standing Committee on Regulations and Private Bills

(If you wish to incorporate by Private Members Bill rather than under the *Not-for-Profit Corporations Act, 2010*)

Committees Branch
99 Wellesley Street West
Room 1405, Whitney Block
Queen's Park
Toronto ON M7A 1A2
Tel: 416-325-3606
Fax: 416-325-3505
Website: www.ontla.on.ca

Ministry of Government and Consumer Services, ServiceOntario

393 University Avenue, Suite 200 (by mail)
Toronto, ON M5G 2M2

www.ontario.ca

Tel: 416 314-8880 or
Toll free 1-800-361-3223

TTY: 416-325-3408
TTY Toll Free: 1-800-268-7095

Governor General

The consent of the Governor General, on advice from the federal Department of Canadian Heritage, has to be obtained by the applicant where the word "Royal" is used as a prefix in a corporate name and where it suggests Royal Patronage. The onus is on the applicant to obtain such consent. The address is:

Office of the Governor General
Rideau Hall
1 Sussex Drive
Ottawa, Ontario K1A 0A1

You may wish to visit the federal Department of Canadian Heritage website:
www.canadianheritage.gc.ca

Innovation, Science and Economic Development Canada

Corporations Canada
C.D. Howe Building
235 Queen Street
Ottawa, Ontario K1A 0H5
Telephone: (613) 941-9042 - National Capital Region or
toll free: 1-866-333-5556
Website: www.ic.gc.ca

Law Society of Ontario – Law Society Referral Service

If you need a lawyer, you may wish to contact the Law Society Referral Service (LSRS). The LSRS is a program of the Law Society of Ontario which offers up to one half-hour of free legal consultation. Information about how to be referred to a lawyer through the LSRS is available at www.lsr.info. If you would like to be referred to a lawyer, you may submit a request to the LSRS by completing the online request form as www.lawsocietyreferralservice.ca.

Ministry of Colleges and Universities

To request consent to use the word “College”, “institute” or “university” in the name of a corporation contact the Private Institutions Unit, Ministry of Colleges and Universities. Please advise the Ministry that you are applying to incorporate under the ONCA.

Ministry of Colleges and Universities
Private Institutions Unit,
Telephone: (416) 212-6586
Website: <https://www.ontario.ca/page/ministry-colleges-universities>

Search Houses

An Ontario-biased Nuans name search report must be obtained for the proposed name of the corporation. Nuans is a computerized search system that compares a proposed corporate name or trade-mark with databases of existing corporate bodies and trade-marks.

ServiceOntario does not provide this search. Suppliers are listed in the Yellow Pages by searching “Searchers of Records” or visit Industry Canada’s Nuans website at, www.nuans.com for a list of registered search houses that can assist you with obtaining a Nuans search report and filing your corporate documents with the ServiceOntario.

ServiceOntario

Forms are available on Central Forms Repository on the ServiceOntario website at www.ontario.ca.

Service Providers

The SPs charge a fee for the services they provide. For more information about the SPs visit the ServiceOntario website at www.ontario.ca.

Contact Us – Ontario.ca/OPGT

<p>Greater Toronto 595 Bay Street, Suite #800 Toronto, ON M5G 2M6 Tel: (416) 314-2800 Toll-free: 1-800-366-0335 TTY: (416) 314-2687 Fax: (416) 314-2619</p> <p><u>Charitable Property Program:</u> Tel.: (416) 326-1963 Fax: (416) 326-1969 PGT-Charities@ontario.ca</p> <p>London Region London Courthouse, 80 Dundas Street, London, ON N6A 6A3 Tel.: (519) 660-3140 Toll-free: 1-800-891-0504 Fax: (519) 660 -3148</p>	<p>Hamilton Region 119 King Street West, 9th Floor Hamilton, ON L8P 4Y7 Tel: (905) 546-8300 Toll-free: 1-800-891-0502 Fax: (905) 546-8301</p> <p>Ottawa Region 351 Preston Street, Suite 200 Ottawa, ON K1S 2E6 Tel: (613) 241-1202 Toll-free: 1-800-891-0506 Fax: (613) 241-1567</p> <p>Thunder Bay Region 189 Red River Road, Suite 101 Thunder Bay, ON P7B 1A2 Tel: 1-800-891-0503 Fax: (807) 343-7223</p> <p>Sudbury Region 199 Larch Street, Suite 602 Sudbury, ON P3E 5P9 Tel: (705) 564-3185 Toll-free: 1-800-891-0503 Fax: (705) 564-3193</p>
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