

# Fredericton Bouldering Co-op. Ltd. By-law

## Definitions

In these by-laws of the cooperative, unless the context otherwise requires:

“Act” means the *Cooperatives Act* SNB 2019, c. 24

“Board” means the board of directors of the cooperative;

“Regulations” means the Regulations 82-58 of the Co-operative Associations Act.

“By-Laws” means the by-laws of the co-operative.

“User Member” means a natural person occupying or foreseeing occupying a site offered by the co-operative.

“Support Members” means a natural person (individual), legal (corporation, company or commerce) or public entity (office or agency) that has an economic or social interest in the objectives of the co-operative. 0°

## Interpretation

In the interpretation of these by-laws, words in the singular include the plural and vice versa, words in one gender include all genders, and “person” includes an individual, body corporate, partnership, trust and unincorporated organization.

Other than as specified above, words and expressions defined in the *Act* have the same meanings when used in this by-law.

## Name of the cooperative

The name of the cooperative is "Fredericton Bouldering Co-op., Ltd.", hereinafter called the “FBC” or “the cooperative”.

## Address of registered office

3-528 Smythe St  
New Brunswick  
E3B 3E6

## Fiscal year end

The fiscal year of the cooperative shall close on the 31/12 of each year.

## **Membership**

### **Application for membership**

Any applicant for membership in FBC shall complete and submit an application as approved by the Board. The Board shall consider the application at the next Board meeting, and immediately thereafter, the cooperative shall notify the applicant of its decision. The Board may delegate the approval of new members as permitted under the *Act*.

### **Classes of membership**

#### **a) User member**

Any physical person using or planning to use a site offered by the Co operative while adhering to its mission and who agrees to pay their shares of qualification can become a member.

#### **b) Support member**

Any person (individual), or legal organization (corporation, company or commerce), or public entity (office or agency) that has an economic or social interest in achieving the objectives of the Co-operative, and who, while adhering to its mission, agrees to pay their shares of qualification, can become a member.

### **Membership fees**

A member share costs a par value of \$100.00 per share.

### **Membership shares**

An User Member must subscribe to a minimum of 1 share to be paid in full upon subscription.

A Support Member must subscribe to a minimum of 5 shares to be paid in full upon subscription.

The maximum number of membership shares a member may hold is 10,000.

### **A. Repurchase of shares**

For the purposes of reducing membership share capital in accordance with subsection 42(1) of the *Act*, membership shares shall be purchased from amongst the members in the ratio that the membership shares held by each member bears to the total number of membership shares held by all the members.

### **B. Dividends**

The members shall vote on the dividend rate to be paid on the membership shares proposed by the board up to a maximum rate of 9.00%.

### **Withdrawal**

The Board may approve the withdrawal of a member and pay the shares held and any amount held to his credit, subject to Article 27 of the Co-operative Associations Act of New Brunswick.

1. If a member wishes to withdraw from FBC, the member must make a written request via the online Membershare Return form, or via an email to FBC Management Team.
2. If a member persists in exhibiting inappropriate behaviour, or behaviour that goes against the mission of the co-op, and no longer serves as a user, the Board may remove a member with a 2/3 vote of the directors present.
3. The board of directors may approve the withdrawal or removal of a member and redeem the shares held and any other amounts held to its credit provided that the finances of FBC permit such a transaction subject to section 27 of the New Brunswick Cooperative Associations Act.
4. The Board of Directors has the right to refuse a request from a potential user to become a member if the candidate:
  - a. Does not meet the requirements to become a member.
  - b. Does not adhere to the mission of the cooperative.
  - c. Is determined to be in conflict with other members of the cooperative.

Within six months of the effective date of withdrawal of membership, the Board shall, in conformity with the *Act*, redeem to the person any redeemable shares and pay any amounts held to the person's credit. The Board shall not redeem any shares or make any payments if in its opinion the redemption or payment would impair the financial stability of FBC.

### **Death of a member**

On the proof of the death of a member, FBC shall transfer the deceased member's membership shares to a person that the cooperative is satisfied is entitled to receive the membership shares of the deceased and meets the requirements of membership.

### **Borrowing Powers**

(a) Subject to subsection 15 c) of the Act, the Co-operative can buy on credit, hire its credit for money borrowed in order to pay for the goods purchased and can assume other obligations by using the security goods and values of the cooperative.

### **Borrowing from members**

In addition to membership loans, the cooperative may borrow money from its members according to a loan agreement approved by the directors. The loan would be with interest at a rate as approved by the directors.

### **Annual meetings**

An annual meeting of members shall be held within four months after the end of the fiscal year.

A notice of time and place of the annual meeting must be given not less than 14 days and not more than 30 days before the meeting.

Where an extraordinary resolution is required under the *Act*, its contents and purpose must be included in the notice of the meeting.

### **Special meetings**

A special meeting may be held at any time.

A special meeting requested in writing, stating the business to be transacted, by at least 50 members or ten percent of the members must be held within 3 months of the board of directors receipt of the written request, unless the nature of the business is one specified in the regulations under the *Act*.

A notice of time and place of the meeting must be given not less than 14 days and not more than 30 days before the meeting.

The notice shall state the purpose for calling the meeting and the business to come before it.

The agenda for a special meeting will only deal with the business specified in the notice of the meeting.

Page 4 of 10

### **Quorum**

A special meeting may be called at any time by the Board. A special meeting shall be called by the Board of Directors of the Co-operative when at least 50 members, or ten (10) percent of all members, whichever is higher, submit an application to the Board of Directors.

50% + 1 of the members or a minimum of fifteen (15) members constitute a quorum for the holding of an annual or special meeting of the Co-operative.

If a quorum is present at the opening of a meeting of members, the members present may proceed with the business of the meeting even if a quorum is not present throughout the meeting.

### **Voting and Participating in meetings**

Voting in person at a meeting of the members of a cooperative takes place by a show of hands or another similar method except when a ballot is demanded by a member at the meeting.

A member of the cooperative may participate and vote in a meeting of the members by means of a telephonic, electronic or other communication facility and will be deemed to be present at the meeting. Voting in this manner may only be carried out if the votes can be gathered in a manner that permits their verification.

### **Election of directors**

The board of directors of the cooperative shall be elected at the annual meeting.

At each annual meeting directors shall be elected to replace those retiring and directors so elected at any annual meeting shall hold office for three years.

In filling a vacancy on the Board, the election shall be for the unexpired term of office of the former director.

A maximum of seven (7) board members are allowed to participate.

### **Terms on the board**

At the first general meeting of the cooperative, for the purposes of the first elected board, one-third of the board of directors shall be elected to hold office until the first annual meeting, one-third shall be elected to hold office until the second annual meeting and the remaining third shall be elected to hold office until the third annual meeting.

Directors of the cooperative may be re-elected but shall not serve more than three consecutive three-year terms without a lapse of at least one year.

### **Board of directors**

A) At the meeting where the election takes place or immediately after, the board must meet and elect from among the directors a president and a vice president. The board must then also appoint a secretary or secretary-treasurer who may or may not be a director.

B) If a vacancy occurs within the cooperative board of directors because of death, resignation or for any other reason, or if a new director does not meet the qualifications required under paragraph 31(5) of the Act, the remaining directors must, within three months, make an appointment which will remain valid until the next annual meeting in order to fill this vacancy.

C) If a director is absent from three consecutive meetings without a valid reason, he is automatically excluded from the board.

D) The Board of Directors of the Co-operative shall meet at least six (6) times a year at the place and time determined by the Board of Directors. The majority of the directors constitute a quorum.

E) Records containing minutes of directors meetings shall be kept by the secretary of the co-operative.

### **Membership requirement**

All directors must be members of the cooperative.

### **Qualifications**

A person is not qualified to be a director if the person:

1. is not an individual
2. is less than 19 years of age
3. has been found by a court in Canada or elsewhere to be incapable of managing his or her affairs,
4. has the status of bankrupt.

A person is not qualified to be a director if the person has been convicted of an offence involving fraud or theft or conspiracy to commit an offence involving fraud or theft under the Criminal Code (Canada) or under the criminal law of a jurisdiction outside of Canada and less than three years have elapsed since

- the conviction has become final by reason of lapse of time or of having been confirmed by the highest court to which an appeal may be taken,
- a fine was imposed, or
- the term of imprisonment or probation imposed, if any, was concluded.

A person is not disqualified if, in relation to the conviction, the person has been granted a pardon, or a record suspension has been ordered under the *Criminal Records Act* (Canada), and the pardon or record suspension, as the case may be, has not been revoked or ceased to have effect.

### **Filling of vacancy**

If a vacancy occurs in the Board, or in the case where a newly elected director fails to qualify for the office of director within two months after the election, the remaining directors may appoint an eligible person as a director who shall hold office until the next general meeting of members or such other date as specified in the appointment. The appointment may not exceed the remainder of the original term. Any time served as a director shall be considered a three-year term.

## **Meetings of the board of directors**

### **Notice**

Notice of a meeting of the board of directors of a cooperative must be sent by mail or may be personally delivered to each director at least ten days before the date of the meeting to the latest address of each director as shown on the records of the cooperative or provided electronically.

The notice must specify the time and place of the meeting but need not specify the matters to be dealt with at the meeting unless the matter is to issue or redeem membership shares or investment shares or a matter listed in subsection 72(2) of the Act.

### **Voting and participating**

A director of the cooperative may participate and vote in a meeting of the directors of the cooperative by means of a telephonic, electronic or other communication facility if the facility permits all persons participating in the meeting to communicate adequately with each other during the meeting.

### **Patronage returns**

a) The co-operative will set aside in the reserve account a minimum of 10% of the annual or semi-annual savings arising from the business of the association as determined in accordance with generally accepted accounting principles and practice, until such fund is equal to thirty percent of paid-up share capital and may establish other reserves for contingencies or specific purposes of the co-operative.

b) While respecting the requirements and needs for general reserve, the operating surplus can be given in patronage to its members.

c) In the event of dissolution and liquidation, the amounts remaining will be distributed to another cooperative.



### **Delivery of notices**

The notice of a meeting of the members or investment shareholders must be: †

- posted at the registered office of the cooperative;
- sent by mail or personally delivered to a member or investment shareholder at the latest address as shown in the records of the cooperative;
- provided electronically in accordance with section 96 of the General Rule;

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### **Dispute resolution**

If a dispute arises out of or is related to the articles or by-laws of a cooperative, or is related to any aspect of the operations of the cooperative, and if this dispute cannot be resolved in private meetings between the member(s) and the cooperative, then without prejudice to or in any other way derogating from the rights of the members set out in the *Act*, articles or by-laws, as an alternative to a lawsuit or legal action, the dispute must be settled by a process of dispute resolution as follows:

† The dispute or controversy shall first be submitted to mediation before either a panel of mediators whereby each party appoints one mediator, and the two mediators so appointed jointly appoint a third mediator (or, if the parties agree, submitted to mediation before one or two agreed upon mediators), and the mediator(s) will then meet with the parties in question in an attempt to mediate a resolution between the parties;

- If the parties are not successful in resolving the dispute through mediation, then the dispute shall be settled by arbitration before a single arbitrator, who shall not be any one of the mediators referred to above, in accordance with the *New Brunswick Arbitration Act*.
- If the matter proceeds to arbitration, the parties agree that all proceedings relating to arbitration shall be kept confidential and there shall be no disclosure of any kind, and that the decision of the arbitrator shall be final and binding and shall not be subject to appeal on a question of fact, law or mixed fact and law.

All costs of the mediators appointed in accordance with this section shall be borne equally by the parties to the dispute or the controversy. All costs of the arbitrators appointed in accordance with this section shall be borne by such parties as may be determined by the arbitrators.

Page 9 of 10

### **CEDC Requirements**

- a) The Co-operative requires that no individual is a specified shareholder of the Co-operative and may not own more than 20% or more of any class of shares of the Co-operative.
- b) The Co-operative restricts its business to
  - (i) operating or carrying on business that is an active business or to evaluating and making investments in one or more active businesses based on a set of criteria defined by the Co-operative.
  - (ii) providing information to and educating investors in the defined community as to the role of capital in business, the value of equity investments to the defined community and the rights and obligations of corporations and shareholders.
  - (iii) investing the capital raised by a specified issue in respect of which a tax credit and certificate has been or may be issued under this Act, in businesses located within the defined community as outlined in the community economic development plan and that meet the criteria prescribed by regulation, if any.
  - (iv) exercising ownership rights with respect to the investments made by the corporation or association, and
  - (v) providing the administrative support necessary to carry on the business of the corporation or association, including preparation of annual reports and the holding of meetings of shareholders and the Board of Directors;
- c) The Co-operative's defined community is: individuals, families and organizations in the greater Fredericton area in need of recreation and climbing service.
- d) The provisions for the annual meetings of shareholders are the provisions in the "annual and special meeting" section of these by-laws on annual and special meetings of members.

Those provisions should read “shareholder” where “member” is mentioned, as the members will be the shareholders of the co-operative.