

Proposed Revisions to the Constitution and Bylaws of the Vancouver Symphony Society

Background:

Following a review of its constating documents, the Board and Nominating & Governance Committee determined that both the Constitution and the Bylaws of the Vancouver Symphony Society required revisions to modernize them. The Constitution and Bylaws were last amended on November 27, 2003 and do not reflect the new *Societies Act* (British Columbia) enacted in 2015.

The attached tables reflect the material differences between the proposed new Constitution and the Bylaws and the existing Constitution and Bylaws.

Both the new Constitution and the Bylaws will require the approval of the members of the Society at the upcoming annual general meeting by a special resolution.

Material Differences between the Existing Constitution and the Proposed New Constitution of the Vancouver Symphony Society

Existing Constitution	Proposed New Constitution	Commentary
<p>The purposes of the Society are:</p> <p>a. For mutual improvement and pleasure; for the advancement of musical culture ...</p>	<p>The purposes of the Society are:</p> <p>a. To create, curate and connect irresistible musical experiences;</p> <p>b. To advance musical culture, access and innovation;</p>	<p>To align with the Cascade of Choice approved by the board.</p>
<p>The purposes of the Society are:</p> <p>b. To engage, employ, hire, or enter into contracts of any description with any person or persons or with any other company for the production and rendering of any or all entertainments of a musical or theatrical character.;</p>	<p>The purposes of the Society are: ...</p> <p>c. To support, maintain and operate a professional symphony orchestra for the Greater Vancouver Community;</p>	<p>To clarify that the support, maintenance and operation of a professional symphony orchestra is central to the Society’s mission.</p>
<p>The purposes of the Society are:</p> <p>a. ... the production of the highest form of musical art as represented by symphonies and the major works of the world’s master composers; for the giving and holding of concerts and musical entertainments, and for the hiring and letting public halls and opera houses for the purpose of giving entertainments of any description;</p>	<p>The purposes of the Society are: ...</p> <p>d. To give and hold concerts and musical entertainments of any description, including orchestral and chamber presentations of the classical repertoire as well as pops, contemporary and new musical works, and to hire and let public halls and multi-media venues for the purpose of giving such musical entertainments;</p>	<p>To align with the Cascade of Choice approved by the board and the broader repertoire reflected therein.</p>
<p>The purposes of the Society are:</p> <p>a. ... for the advancement of the Musical Education of younger members of the Community.</p>	<p>The purposes of the Society are: ...</p> <p>e. To advance the musical education of members of the Community;</p>	<p>To eliminate age restrictions from the VSO’s music education mandate.</p>
<p>The purposes of the Society are: ...</p>	<p>The purposes of the Society are: ...</p>	<p>To align with the Cascade of Choice approved by the board.</p>

<p>b. To engage, employ, hire, or enter into contracts of any description with any person or persons or with any other company for the production and rendering of any or all entertainments of a musical or theatrical character.</p>	<p>f. To engage, employ, hire, or enter into contracts of any description with any person or persons or with any other company for the production and rendering of entertainments of a musical character or for musical education;</p>	<p>To reflect the increased staff and commercial business associated with the VSO School of Music.</p>
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<p>The purposes of the Society are: ...</p> <p>e. To receive gifts, bequests, funds and property, and to hold, invest, administer and distribute funds and property for the purposes of the Society, for such other organizations as are “qualified donees” under the provisions of the Income Tax Act which are charitable at law and for such other purposes and activities as are authorized for registered charities Under the provisions of the Income Tax Act.</p>	<p>The purposes of the Society are: ...</p> <p>h. To receive and maintain a fund composed of money and property and to distribute from time to time all or part of the fund or funds of the Society and/or the income therefrom to any “qualified donee”, as defined under the <i>Income Tax Act</i> (Canada).</p>	<p>Reflects simpler and more current wording recommended by tax counsel.</p>
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Material Differences between the Existing Bylaws and the Proposed New Bylaws of the Vancouver Symphony Society

Existing Bylaws	Proposed New Bylaws	Commentary
1.1 (d) “Board resolution” means ... (ii) a resolution that has been submitted to all of the directors and consented to in writing by 75% of the directors who would have been entitled to vote on it in person at a meeting of the Board;	Deleted and replaced by a requirement for unanimity for a written consent resolution of the board.	The unanimous resolution in writing threshold is viewed as a more modern governance standard.
1.1 (m) “ordinary resolution” means (ii) a resolution that has been submitted to all of the members and consented to in writing by 75% of the members who would have been entitled to vote on it in person at a general meeting of the Society;	Deleted and governed by the lower 2/3rds thresholds provided in the new <i>Societies Act</i> (British Columbia).	To conform to the wording and approach of the new <i>Societies Act</i> (British Columbia). The 2/3rds threshold is viewed as a more modern governance standard.
1.1 (r) “special resolution” means: (i) a resolution passed at a general meeting of the Society by a majority of not less than 75% of the votes cast by those members present at such meeting and who are entitled to vote;	Deleted and governed by the lower 2/3rds thresholds provided in the new <i>Societies Act</i> (British Columbia).	To conform to the wording and approach of the new <i>Societies Act</i> (British Columbia). The 2/3rds threshold is viewed as a more modern governance standard.
Use of the term “officers”	Use of the term “senior managers”	To conform to the wording and approach of the new <i>Societies Act</i> (British Columbia).
2.5 A member may be expelled by a resolution passed at a meeting of the Board by not less than 75% of the votes cast by those directors present at such meeting and who were entitled to vote.	3.4 Expulsion. The board may, in accordance with section 3.7, expel any member where the member has failed to observe, in a material and serious degree, the rules and Bylaws of the Society or where the member has engaged in conduct materially and seriously prejudicial to the purposes and interests of the Society. 3.7 Procedure for Expulsion, Termination or Suspension. If grounds appear to exist for the expulsion, termination or suspension of a member under sections 3.4 or 3.5 (the	To conform to the new <i>Societies Act</i> (British Columbia).

	<p>“Disciplinary Action”), the following procedure shall be followed:</p> <p>(a) Notice - Written notice shall be given to the member in accordance with section 18.1 of the proposed Disciplinary Action and the reasons therefor at least 30 days prior to the effective date of the Disciplinary Action as set out in the notice;</p> <p>(b) Hearing - During the period from the date the notice was deemed to be given to ten days before the effective date of the Disciplinary Action, the member shall be given every reasonable opportunity to present to the board, either orally or in writing, his or her reasons why the Disciplinary Action should not proceed;</p> <p>(c) Meeting - The board shall decide whether or not to proceed with the Disciplinary Action, by a majority of the votes cast at a meeting of the directors to be held not less than five days before the effective date of the Disciplinary Action. In the event the board approves proceeding with the Disciplinary Action, the approval shall be final; and</p> <p>(d) Appeal - Any appeal of a Disciplinary Action must be commenced by the member so affected within one year after the effective date of the Disciplinary Action.</p>	
No restriction	2.6 <u>Access to Records</u> . Members shall not have access to the Society’s accounting records or records of directors’ proceedings.	The restriction is permitted under the new <i>Societies Act</i> (British Columbia).
<p>4.1 Special business is: ...</p> <p>(b) all business that is transacted at an annual general meeting, except: ...</p> <p>(vii) all other business that, under these bylaws or any governing statutes, ought to be transacted at an annual general meeting, or business which is brought under consideration by the report of</p>	Deleted	In practice, the report of the directors is not issued with the notice of the meeting.

the directors if the report was issued with the notice of the meeting.		
4.4 A quorum at a general meeting is 20 members in good standing.	7.3 <u>Quorum</u> . A quorum at any general meeting shall be 15 members of record in good standing.	At times in the past the 20 person quorum has been difficult to achieve.
4.10 Any resolution proposed at a general meeting shall be seconded and the chair of a meeting may move or propose a resolution.	8.1 <u>Voting</u> . Unless provided otherwise in the Act or these Bylaws: ... (b) no resolution submitted at a general meeting need be seconded and the chair of the meeting may move or propose a resolution	The removal of the seconding requirement at a general meeting is a more modern governance standard.
4.14 Voting shall be by show of hands or voice vote recorded by the secretary of the meeting, except that, at the request of any two directors, a secret vote by written ballot shall be required.	8.2 <u>Secret Ballot</u> . Notwithstanding section 8.1(a), a secret ballot may be demanded by any member who is entitled to vote at a general meeting either before or on the declaration of the result of any vote by show of hands, an oral vote or another method pursuant to section 8.1(a).	The right of a member to request a secret ballot is a more modern governance standard and conforms with the voting provisions of the new <i>Societies Act</i> (British Columbia).
5.6 Elections for directors shall normally be held at the annual general meeting and the term of office of directors shall normally be three years.	9.4 <u>Term of Directors</u> . The directors of the Society shall have a term of office: (a) if originally elected prior to the 2021 annual general meeting, of three years; or (b) if originally elected at or subsequent to the 2021 annual general meeting, of two years. Directors may be elected at annual general meetings to: (i) if originally elected prior to the 2021 annual general meeting, a maximum of three consecutive three year terms of office; or (ii) if originally elected at or subsequent to the 2021 annual general meeting, a maximum of three consecutive two year terms of office. Notwithstanding the foregoing, in exceptional circumstances the board may extend the third consecutive term of the Chair as a director by a maximum of one year (i.e., in the case of a Chair originally elected as a director prior to the 2021 annual general meeting for a third term of four	To conform to the new term limits for directors which were recently approved by the board.

	years and a total term not to exceed ten years; and in the case of a Chair originally elected as a director at or subsequent to the 2021 annual general meeting for a third term of three years and a total term not to exceed seven years). A director whose three consecutive terms have expired pursuant to section 9.4(a) or 9.4(b) above, must cease to be a director for at least one year before being re-eligible for election.	
5.6 ... However the members may by ordinary resolution determine that some or all vacant directors' positions shall have a term of less than three years, the length of such term to be determined by the members in their discretion.	Deleted	To conform to the new term limits for directors which were recently approved by the board.
5.7 The Board appointed or elected under this Part V may from time to time appoint any number of additional directors to the Board, provided that: (i) the additional directors are first nominated by at least two directors and their appointment is approved by a resolution passed at a Board meeting by not less than 75% of the votes cast by the directors present;	9.8 <u>Additional Directors</u> . The board, between annual general meetings of the members, may appoint one or more additional directors; provided, however, that the number of additional directors must not at any time exceed one-third of the number of directors then in office.	The removal of the supermajority vote to nominate additional directors is a more modern governance standard.
5.9 ... In elections where there are more candidates than vacant positions for directors, election shall be by secret ballot with the name of each duly nominated candidate appearing individually on the ballot. Candidates shall be deemed to be elected in the order of those candidates receiving the most votes.	Deleted	Provides flexibility to increase the size of the board.
5.12 Once a person is elected as a director, that person if not already a member of the Society must become a member of the Society prior to the annual general meeting next following his or her election.	9.12 <u>Membership of Directors</u> . Upon election or appointment as a director, that person shall be deemed to have been accepted by the board as a member of the Society.	Streamlines the membership process for directors.

<p>5.14 Every director shall unreservedly subscribe to and support the purposes of the Society and continue to meet and conform with the Standards of Participation and Conduct of Directors as adopted by the Board from time to time.</p>	<p>9.10 <u>Director Conduct</u>. Every director shall unreservedly subscribe to and support the purposes of the Society and continue to meet and conform with such codes of conduct as adopted by the board from time to time.</p>	<p>To conform to the new Code of Conduct which was recently approved by the board and to reflect that the historical Standards of Participation and Conduct of Directors cannot be located.</p>
<p>5.18 A director shall immediately cease to be a director of the Society; ... (d) upon failing to attend or participate in three consecutive meetings of the Board of which such director had notice, unless a waiver has been filed in pursuance of bylaw 8.13, or unless the Board passes a Board resolution, evidenced in writing, specifically waiving this condition with respect to a named director;</p>	<p>9.9 <u>Termination of Office</u>. The office of a director shall automatically be terminated if any of the following events occur: ... (h) the director fails to attend or otherwise participate in at least half of the board meeting during any 12 month period unless the Chair specifically waives this condition with respect to such director.</p>	<p>Provides greater flexibility to accommodate board members with busy schedules.</p>
<p>5.19 No director shall be remunerated for being or acting as a director, but a director may be reimbursed for all expenses necessarily and reasonably incurred by such director while engaged in the affairs of the Society.</p>	<p>9.11 <u>Remuneration</u>. Except as provided in section 4.1, the Society shall not pay remuneration to a director for being a director, but the Society may, subject to the Act, pay remuneration to a director for services provided by the director to the Society in another capacity or reimburse a director for reasonable expenses incurred by him or her in the performance of his or her duties as a director of the Society.</p>	<p>Such remuneration is permitted under the new <i>Societies Act</i> (British Columbia). Provides greater flexibility to remunerate directors for services provided in another capacity.</p>
<p>6.1 The Board may appoint worthy persons to an advisory council to be known as the Trustees of the Vancouver Symphony to perform duties specified by the Board and to provide advice and counsel to the Board on broad issues of policy and profile.</p>	<p>13.1 <u>Appointment</u>. The board may appoint worthy persons from time to time to an ad hoc advisory council (the “Advisory Council”) to perform duties specified by the board and to provide advice and counsel to the board on broad issues of policy and profile.</p>	<p>Provides greater flexibility in appointing an advisory body and avoids the heavy legal onus and implications of trusteeship.</p>
<p>8.6 A director may at any time, and the Secretary on the request of a director shall, convene a meeting of the Board.</p>	<p>10.1 <u>Holding of Meetings</u>. The Chair of the Society may at any time, and the Secretary shall at the request of any two directors, convene a meeting of the board.</p>	<p>The two director requirement for calling board meetings is a more modern governance standard.</p>
<p>8.11 Voting shall be by show of hands or voice vote recorded by the secretary of the meeting</p>	<p>10.8 Voting. ... Voting shall be by a show of hands, an oral vote or another method that</p>	<p>Secret ballots at board meetings are not in keeping with modern governance standards.</p>

<p>except that, at the request of any one director, a secret vote by written ballot shall be required.</p>	<p>adequately discloses the intention of each director and recorded by the secretary of the meeting.</p>	
<p>8.13 A director who contemplates being or is temporarily absent from British Columbia may, by letter, facsimile, e-mail or other electronic means, send or deliver to the Secretary or to the address of the Society a waiver of notice of any meeting of the Board for a period not longer than one year and may, at any time, withdraw the waiver in like manner. Until the waiver is withdrawn:</p> <p>(a) no notice of meetings of the Board need be sent to that director; and</p> <p>(b) any and all meetings of the Board, notice of which has not been given to that director shall, if a quorum is present, be valid and effective.</p>	<p>Deleted</p>	<p>Unnecessary given developments in modern telecommunications.</p>
<p>9.5 Subject to the control of the Board, the Executive Committee shall have power to transact all business of the Society in the interim between meetings of the Board. The Executive Committee shall meet at the call of the chair of the Committee or of any two members thereof.</p>	<p>11.5 <u>Authority, Power and Discretion of the Executive Committee.</u> Subject to the control of the board, the Executive Committee shall have the authority, power and discretion to transact all business of the Society in the interim between meetings of the board; provided such business is of a pressing nature and must be addressed before the next regularly scheduled board meeting.</p>	<p>Clarifies that the Executive Committee's authority and power is restricted to pressing matters that need to be addressed prior to the next regularly scheduled meeting of the board.</p>
<p>10.2 The Nominating Committee shall select and present to the Board at least 60 days prior to the next Annual General Meeting a list of persons who have agreed to let their names stand for election as directors of the Society at the next annual general meeting.</p>	<p>12.2 <u>Presentation to Board.</u> The Nominating Committee shall select and present to the board at least 30 days prior to each annual general meeting a list of persons who have agreed to let their names stand for election as directors of the Society at such annual general meeting.</p>	<p>Provides more time for the Nominating Committee to nominate candidates for election as directors.</p>
<p>13.1 Subject to the Act, the directors may, by resolution, cause the Society to borrow such sums of money on such terms and on such</p>	<p>16.1 <u>Borrowing Powers.</u> The board may, by resolution, cause the Society to:</p> <p>(a) borrow money; or</p>	<p>The ability to issue bonds, debentures, notes or other debt obligations is permitted under the new <i>Societies Act</i> (British Columbia) and</p>

<p>security as the directors may from time to time determine by resolution.</p>	<p>(b) issue bonds, debentures, notes or other evidences of debt obligations, on such terms as the board may determine and as specified in a resolution of the directors.</p>	<p>provides greater financial flexibility to the Society.</p>
<p>13.3 The members may restrict by ordinary resolution the borrowing powers of the Board.</p>	<p>Deleted</p>	<p>The provision could unnecessarily restrict the financial flexibility of the Society.</p>
<p>16.2 Any meeting of the Society, the Board, the Trustees of the Vancouver Symphony or any committee may also be held, and any person entitled to attend such meeting as member, director, Trustee of the Vancouver Symphony, committee-member or otherwise may participate in any such meeting, by conference call or similar communication equipment or device so long as all the persons participating in such meeting can hear and respond to one another. Each such person entitled to and so participating in any such meeting shall be deemed to be present in person at the stated location of such meeting and shall be entitled to vote by a voice vote recorded by the secretary of such meeting.</p>	<p>7.7 <u>Electronic Meetings</u>. Unless approved by a resolution of the board, the Society shall not hold a general meeting that is an electronic meeting and members shall not participate in a general meeting by conference telephone or any other communications medium. If approved by a resolution of the board, a general meeting may be held as an electronic meeting whereby all the members participating in the meeting can hear each other and make themselves heard. A member so participating in an electronic meeting in accordance with this section 7.7 shall be deemed to be present at the meeting and to have so consented and shall be counted in the quorum for the meeting and shall be entitled to speak and vote at the meeting.</p>	<p>The restriction is permitted under the new <i>Societies Act</i> (British Columbia). Provides the board flexibility to accommodate, and provide equal access to all members, for electronic meetings.</p>
<p>No signing authority specified.</p>	<p>16.4 <u>Signing Authority</u>. A contract or other record to be signed by the Society must be signed on behalf of the Society: (a) if the contract or record is below a materiality threshold established by the directors, by the President; (b) if the contract or record is equal to or above a materiality threshold established by the directors, by the President and one of the directors or senior managers; (c) notwithstanding section 16.4(a) or (b), if the contract or record by its terms requires the signature of one or more directors and/or senior</p>	<p>Reflects modern governance, financial controls and risk management standards.</p>

	<p>managers, by those directors and/or senior managers; and</p> <p>(d) notwithstanding section 16.4(a) or (b), if the contract or record is approved by a resolution of the board, by those directors and/or senior managers specified in such resolution.</p>	
16.8 The operations of the Society are to be chiefly carried on in the City of Vancouver.	Deleted.	To align with the Cascade of Choice approved by the board.
17.6 Expenses incurred with respect to any claim, action, suit or proceeding may be advanced by the Society prior to the final disposition thereof in the discretion of the Board and upon receipt of an undertaking satisfactory in form and amount to the Board by or on behalf of the recipient to repay such amount unless it is ultimately determined that he or she is entitled to indemnification hereunder.	17.3 <u>Payment of Expenses Incurred in Advance.</u> To the extent the Society is not prohibited by the Act, the Society shall pay, as they are incurred in advance of the final disposition of an eligible proceeding, the expenses actually and reasonably incurred by an eligible party or a representative of the eligible party in respect of the eligible proceeding; provided the Society first receives from the eligible party or the representative of the eligible party a written undertaking that, if it is ultimately determined that the payment of expenses is prohibited by section 65 of the Act, the eligible party or the representative will repay the amounts advanced.	Such advance indemnification is permitted under the new <i>Societies Act</i> (British Columbia). Advance indemnification should not be at the discretion of the board.